

Transcript of the Testimony of **Laura Greer**

Date: May 23, 2018

Case: Laura Greer v. Universtity Hospitals Health Systems
Inc., et al.



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Laura Greer

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1 (Pages 1 to 4)

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LAURA GREER,)
)
Plaintiff,)
)
vs.) Case No. 1:17-CV-001438
)
UNIVERSITY HOSPITALS) Judge Solomon Oliver, Jr.
HEALTH SYSTEMS INC, et al.,)
)
Defendants.)

- - -

DEPOSITION OF LAURA GREER

DATE: May 23, 2018 at 10:08 a.m.

PLACE: Wasserman, Bryan, Landry & Honold
1090 West South Boundary, Suite 500
Perrysburg, Ohio 43551REPORTER: Robert W. Scheid, Jr., RPR
Notary Public

- - -

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1 APPEARANCES:

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14

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1 LAURA GREER,
2 the Plaintiff herein, called by the Defendants as if
3 upon Examination, was by me first duly sworn, as
4 hereinafter certified, deposed and said as follows:
5 EXAMINATION

6 BY MR. CAMPBELL:

7 Q. Good morning. Could you please state
8 your name for the record?

9 A. Laura Allison Greer.

10 Q. Okay. Could you spell Greer for the
11 record?

12 A. G-r-e-e-r.

13 Q. And what is your current address?

14 A. 7409 Township Road 212, Findlay,
15 F-i-n-d-l-a-y, Ohio 45840.

16 Q. Okay. Do you own or rent?

17 A. Own.

18 Q. How long have you resided there?

19 A. 2002.

20 Q. Okay. Have you ever been through a
21 deposition?

22 A. No.

23 Q. I'm sure Mr. Landry has given you some of
24 his instructions, and I'll give you mine just so we're
25 on the same page. As you're doing, if you would just

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2 (Pages 5 to 8)

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1 wait to respond until I'm done with the question.
 2 Do you understand that?
 3 **A. Yes.**
 4 Q. And then, if you could, as you're doing,
 5 just speak audibly, please, "yes" or "no."
 6 It will be easier on the reporter, okay?
 7 **A. Yes.**
 8 Q. Sometimes you'll know where I'm heading
 9 with the question. If you could, just be patient and
 10 wait until I'm done. It will, again, make it easier
 11 for the record and I won't have to repeat.
 12 Do you understand that?
 13 **A. Yes.**
 14 Q. And then if you need a break at any time,
 15 just let me know, okay?
 16 **A. Yes.**
 17 Q. And then if I ask a question that's
 18 confusing, which I often do, or if I have a compound
 19 question or anything like that, you just speak up.
 20 Or if you need me to explain something,
 21 you feel free to do it, okay?
 22 **A. Okay.**
 23 Q. Okay. So let me ask you a little bit, I
 24 guess, about your -- let me ask you, first of all, are
 25 you on any prescription medications today?

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1 **A. Yes.**
 2 Q. Are they going to impact your ability to
 3 testify?
 4 **A. No.**
 5 Q. Okay. If you don't mind me asking, what
 6 prescriptions -- not necessarily taken today, but what
 7 prescriptions do you have at this time? Like, what
 8 medications have you been prescribed?
 9 **A. Wellbutrin.**
 10 Q. Wellbutrin?
 11 **A. Yes.**
 12 Q. Okay.
 13 **A. Prednisone.**
 14 Q. Okay. Anything else?
 15 **A. I have to take a chemotherapy drug and,**
 16 **I'm sorry, I'm unclear as to the name of it.**
 17 Q. That's fine.
 18 **A. I take a liquid antibiotic --**
 19 Q. Okay.
 20 **A. -- to protect my lungs and heart.**
 21 Q. Okay. Anything else?
 22 **A. Yes. I'm trying to think of it. Sorry.**
 23 Q. No problem.
 24 **A. I can't think of the name of it.**
 25 Q. What's it for?

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1 **A. Neuropathy. Neurontin.**
 2 Q. Neurontin, okay. And just so I
 3 understand a little bit, the Wellbutrin, how long have
 4 you been prescribed that approximately?
 5 **A. Two years.**
 6 Q. Two years. Did you have anything that
 7 was similar to that that it replaced? Sometimes
 8 doctors will replace a certain medication with a
 9 similar one.
 10 **A. They had put me on Zoloft.**
 11 Q. Okay.
 12 **A. And, also, I do take Xanax every day.**
 13 Q. Okay. Xanax, okay.
 14 So was Zoloft similar to the Wellbutrin
 15 and you switched from Zoloft to Wellbutrin?
 16 **A. They took me off due to some of the**
 17 **medications, of the Zoloft.**
 18 Q. Okay.
 19 **A. And left me on the Wellbutrin.**
 20 Q. Okay. When did you start, I guess, the
 21 Zoloft? Was the Zoloft before two years ago?
 22 **A. No.**
 23 Q. No, okay. So two years ago is when you
 24 started --
 25 **A. Yes.**

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1 Q. Was that for depression or an
 2 antidepressant? What was that for?
 3 **A. It was depression.**
 4 Q. Okay. What was the reason, I guess, at
 5 that time, why it was there? Is there a reason that
 6 you asked for or that your physician recognized?
 7 **A. I was not sleeping, not being able to**
 8 **eat.**
 9 Q. Okay. Anything else or was that the
 10 symptoms?
 11 **A. Yes.**
 12 Q. That's it?
 13 **A. Yes.**
 14 Q. Okay. And I take it you would go to your
 15 family physician, reported those symptoms, and then
 16 your family physician gave you a Zoloft, initially,
 17 and then a Wellbutrin?
 18 **A. They actually put me on both at the same**
 19 **time.**
 20 Q. Okay. And you've been on that
 21 prescription for the last two years?
 22 **A. Yes.**
 23 Q. Okay. Does that help the sleeping and
 24 the eating?
 25 **A. No. Not a lot.**

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3 (Pages 9 to 12)

Page 9

1 Q. Okay, okay. The Prednisone, what is that
2 for?
3 **A. To help the inflammation in my brain.**
4 Q. Okay. And how long have you been on
5 Prednisone?
6 **A. Since the end of January.**
7 Q. Okay. And I guess when you look at the
8 chemotherapy and the antibiotic, I don't know your
9 medical history and I don't want to go into great
10 detail, but did you have a recent health issue?
11 **A. Yes.**
12 Q. What was that?
13 **A. I was diagnosed with central nervous**
14 **system vasculitis.**
15 Q. When was that diagnosis?
16 **A. January 29th.**
17 Q. Of this year?
18 **A. This year.**
19 Q. Okay. 2018?
20 **A. 2018.**
21 Q. Okay. I'm sorry to hear that.
22 Did you have -- so was that the first
23 time that you were diagnosed with anything of that
24 nature?
25 **A. Yes.**

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1 Q. Okay. And is that why the chemotherapy
2 and the liquid antibiotic?
3 **A. Yes.**
4 Q. Okay. Okay. And then the Neu --
5 **A. Neurontin.**
6 Q. Neurontin. Was that also related to
7 that?
8 **A. I've been on the Neurontin --**
9 Q. Prior to?
10 **A. -- prior to.**
11 Q. Okay. And what is that for?
12 **A. It's to help nerve pain and fibromyalgia.**
13 Q. Okay.
14 **A. And then the issues with my back.**
15 Q. Okay. What are the issues with your
16 back?
17 **A. I've had two back surgeries.**
18 Q. Okay. My wife has had a fusion and then
19 I think they scraped some of her spinal -- the spine
20 at first.
21 What, in general, was the nature of your
22 surgeries?
23 **A. I had a fusion in my cervical and then**
24 **the thoracic.**
25 Q. Okay. When was your last surgery

Page 11

1 approximately?
2 **A. I believe 2008.**
3 Q. 2008, okay.
4 Were you on pain medication following
5 those surgeries?
6 **A. Yes.**
7 Q. Because we will go into, like, 2015
8 and '16 with the pain medication.
9 Is that due to the back injury?
10 **A. Yes.**
11 Q. Okay. Are you on any pain medications
12 now?
13 **A. No.**
14 Q. Okay. Let me just -- and I don't need to
15 go into great detail about it.
16 Well, just before I do that, how long
17 have you been prescribed Xanax?
18 **A. For the last two years.**
19 Q. Two years, okay. And is that when
20 needed, you take it, or is that a daily?
21 **A. Daily.**
22 Q. Okay. And is that, again, to help the
23 sleeping and eating?
24 **A. No. It's to help with the anxiety.**
25 Q. Okay. And, I guess, let me just ask you,

Page 12

1 was the anxiety the first time you experienced it two
2 years ago? Was that the first time you started a
3 prescription for it or had you been prescribed
4 something for anxiety prior to that?
5 **A. I believe four -- it's been about five**
6 **years when my mother was dying. My family doctor gave**
7 **me a short prescription of it to get through.**
8 Q. Okay. Then it came back two years ago?
9 **A. Yes.**
10 Q. Okay. So when we say, "two years ago,"
11 is this two years ago, like -- when would you put that
12 in? Tell me approximately when in the year.
13 **A. July of 2016.**
14 Q. July 2016, okay.
15 And then just so I'm clear on the current
16 diagnosis, do you have any work restrictions at this
17 point? Like if you were going to be working at UH,
18 would you have any restrictions?
19 **A. Right now, I cannot work due to I had an**
20 **auto accident December 1st.**
21 Q. Okay.
22 **A. So I actually have about nine fractures**
23 **starting in my cervical down to my lower back.**
24 Q. Okay. So that was December 1st, 2017.
25 **A. Yes.**

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4 (Pages 13 to 16)

Page 13

1 Q. Okay. Car accident.
 2 Were you at fault or who was at fault?
 3 A. **I was. I tried to miss a deer.**
 4 Q. Okay. Okay. So you're injured today
 5 from that?
 6 A. **Yes.**
 7 Q. Okay. When do you expect to recover and
 8 be able to return to work?
 9 A. **We're unsure, because the fractures are**
 10 **not healing.**
 11 Q. Okay. Is that how you learned of your
 12 current diagnosis, from that car accident and the
 13 medical treatment that followed?
 14 A. **No. I guess the end of July -- excuse**
 15 **me, January, I guess, according to my husband, I**
 16 **started just not acting right and everything. And he**
 17 **eventually took me to the emergency room.**
 18 Q. And that's how you were diagnosed?
 19 A. **Yes.**
 20 Q. Okay. And, I guess -- I know it's hard,
 21 but in simple terms, what is that diagnosis? How will
 22 it impact you?
 23 A. **This part affects your spine.**
 24 Q. Okay.
 25 A. **And your brain.**

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1 Q. Okay. Do you have any restrictions at
 2 this time, work restrictions, due to that diagnosis?
 3 A. **Yes, probably so. I would probably not**
 4 **be able to work at this time.**
 5 Q. Okay. Even without the car accident?
 6 A. **Correct.**
 7 Q. Okay. And I guess, let me ask you this.
 8 Well, first of all, on the car accident,
 9 just so I can understand the two issues, the car
 10 accident, you have fractures in your spine or where
 11 are the fractures?
 12 A. **They start in my cervical and go all the**
 13 **way down my back.**
 14 Q. Okay. Okay. And as of right now, I take
 15 that it you would not be allowed -- you wouldn't be
 16 medically able to work since December 1 of 2017?
 17 A. **Correct.**
 18 Q. Okay. At this time, you don't know when
 19 those fractures are going to heal and permit you to
 20 return, take the other diagnosis out.
 21 A. **Correct.**
 22 Q. And the other diagnosis with your
 23 restrictions, the January 2018 diagnosis, are those
 24 going to improve with your medications or do you see
 25 that as an ongoing disability-type filing, like where

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1 you'll go to SSDI and file?
 2 A. **Yes.**
 3 Q. "Yes," being the SSDI?
 4 A. **Yes.**
 5 Q. Okay. So let me ask this. Let's say
 6 that your leave would have been granted. And we'll
 7 get into it, but the leave when you went to, I think,
 8 San Antonio.
 9 A. **Yes.**
 10 Q. And say that you were still employed by
 11 UH, because you got back from San Antonio shortly
 12 before December 1, right?
 13 A. **Right.**
 14 Q. Would you be on a leave of absence today?
 15 A. **Yes. I would be on -- I would probably**
 16 **have flipped to long-term disability.**
 17 Q. Okay. And that's where you would have
 18 stayed on long-term disability as long as it would
 19 have been providing you benefits?
 20 A. **Correct.**
 21 Q. Okay. So I take it, with that, you
 22 haven't sought long-term employment since leaving UH.
 23 A. **Could you repeat that?**
 24 Q. Since leaving UH or separating, you
 25 haven't sought alternative employment yet.

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1 A. **I started to.**
 2 Q. Okay.
 3 A. **And then I had the car accident.**
 4 Q. Okay.
 5 A. **So no.**
 6 Q. Okay. So as of right now, have you made
 7 your filing for SSDI?
 8 A. **Yes.**
 9 Q. You have.
 10 A. **Yes.**
 11 Q. Okay. When was that?
 12 A. **I filed it at the end of February.**
 13 MR. CAMPBELL: Frank, did we get
 14 that? I guess it would be relevant to
 15 the lost-wage claim.
 16 MR. LANDRY: I don't think we
 17 have a copy of that. We're not handling
 18 that.
 19 MR. CAMPBELL: I guess we'll
 20 have to see. I don't know if I
 21 necessarily need to see it if this
 22 changes some of what you're seeking.
 23 BY MR. CAMPBELL:
 24 Q. So I take it that as of your filing at
 25 the end of February, you're taking the position with

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5 (Pages 17 to 20)

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1 the government that, for the foreseeable future,
 2 you're unable to work, you're disabled according to
 3 the law.
 4 **A. Yes.**
 5 **Q.** Okay. So if we are together at this time
 6 next year, you would assume at that point you would be
 7 on disability? Hopefully you're recovering, but for
 8 right now, you would say you'd be on disability
 9 receiving those benefits at this time next year, would
 10 be your expectation?
 11 I mean, you tell me. What's your
 12 expectation, I guess, at the end of this year? Do you
 13 expect to be back to work or what's your expectation?
 14 **A. I would like to. Disability has been**
 15 **approved as of last week.**
 16 **Q.** Oh, it has been approved.
 17 **A. Yes.**
 18 **Q.** Okay. So you weren't initially denied.
 19 It was granted immediately.
 20 **A. Correct.**
 21 **Q.** Okay. So as of right now, you're on
 22 SSDI?
 23 **A. I have not started receiving any**
 24 **benefits.**
 25 **Q.** Okay. But it has been approved.

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1 in, I guess it was, like, around September of 2017 or
 2 December of 2017?
 3 **A. Can you repeat that one?**
 4 **Q.** I thought I read in the records somewhere
 5 that you missed one of your -- I guess one of the EAP
 6 appointments because you had been in a car accident in
 7 2017?
 8 Is that accurate?
 9 **A. I do not recall that.**
 10 **Q.** Okay. So the only car accident you've
 11 been involved in, say, in the last two years is the
 12 accident in December.
 13 Is that a fair statement or no?
 14 **A. Last year would have been in May.**
 15 **Q.** Okay.
 16 **A. We were coming back from Myrtle Beach and**
 17 **hit, ended up, it was a deer that we hit.**
 18 **Q.** Okay.
 19 **A. So we got stuck in West Virginia for a**
 20 **few days because we could not get a rental car to get**
 21 **out of there.**
 22 **Q.** Okay. Okay. So you missed some work due
 23 to that?
 24 **A. Yes.**
 25 **Q.** Okay. And, like I said, I thought there

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1 **A. Yes.**
 2 **Q.** And when I say, "on," it's been approved
 3 and you'll start receiving benefits, I guess,
 4 retroactive to your disability date in February?
 5 **A. No. Actually, you have a five-month**
 6 **waiting period.**
 7 **Q.** Okay. Okay. Okay. Thank you for that.
 8 So I don't think I need to go into a lot of the
 9 job-seeking at this point.
 10 But just so we're clear, then, like I
 11 said, if the leave of absence would have been approved
 12 and you were still employed, today you would be on
 13 medical leave of absence from UH?
 14 **A. Yes.**
 15 **Q.** Okay. And you would have applied for
 16 long-term disability, I guess, in connection with your
 17 SSDI?
 18 **A. Yes.**
 19 **Q.** Okay. Thank you for that. So let me ask
 20 you about other litigation or other claims that you
 21 may have had.
 22 So on the car accident, was that just
 23 your car?
 24 **A. Yes.**
 25 **Q.** Okay. Were you in an accident earlier

Page 20

1 was something that came up in September after this
 2 lawsuit was filed or right before where you reported a
 3 car accident and had to miss work.
 4 Do you have any recollection of that?
 5 **A. No, I do not.**
 6 **Q.** Okay. And I assume that your
 7 recollection of car accidents, anything that would be
 8 enough that you would miss work, you would recall.
 9 **A. Yes.**
 10 **Q.** Okay. Okay. So then in terms of other
 11 litigation, did you file for unemployment benefits in
 12 this case?
 13 **A. I did initially, yes.**
 14 **Q.** Okay. And what do you mean? That you
 15 withdrew it or didn't pursue it or what happened?
 16 **A. After I filed it, then I had the car**
 17 **accident.**
 18 **Q.** Okay.
 19 **A. So you cannot collect unemployment.**
 20 **Q.** Oh, because you were unable to work.
 21 **A. Correct.**
 22 **Q.** Okay. Okay. Then as to any other
 23 claims, have you ever filed a Workers' Compensation
 24 claim?
 25 **A. Yes.**

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6 (Pages 21 to 24)

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1 Q. With UH or with somebody else?
 2 A. **Somebody else.**
 3 Q. Okay. So none at UH?
 4 A. **No.**
 5 Q. Okay. And then have you been in any
 6 other lawsuits aside from this where, I guess, first
 7 of all let me ask you, where you've ever sued
 8 somebody?
 9 A. **No.**
 10 Q. Okay. Have you ever been sued?
 11 A. **No.**
 12 Q. Okay. Have you ever filed for disability
 13 benefits before 2018?
 14 A. **No.**
 15 Q. Okay. Have you ever filed any other
 16 charges of discrimination?
 17 A. **No.**
 18 Q. Okay. So let me ask you, then, I guess
 19 just a little bit about -- let me ask you about when
 20 you were -- let's go before December 1 of 2017 and
 21 before your current diagnoses when you were at UH.
 22 Let's just focus on 2016 and 2017, okay?
 23 I understand that you have back problems,
 24 or you had them at that time, and you had two prior
 25 surgeries. So that's one, I guess, ailment that you

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1 suffered during 2016 and 2017 concerning back issues.
 2 Is that a true statement?
 3 A. **Yes.**
 4 Q. Okay. And let me ask you, in 2016 and
 5 2017, did you have any work restrictions at UH? And
 6 I'm going to use "UH."
 7 Are we on the same page with that, when I
 8 talk about your employment?
 9 A. **That's fine.**
 10 Q. Okay. Did you have any work restrictions
 11 due to your back issues?
 12 A. **I had FMLA papers.**
 13 Q. Okay. For absences?
 14 A. **Yes.**
 15 Q. Okay. When you were at work, did you
 16 have any work restrictions that said, hey, you can
 17 only work so many hours a day or a week or anything
 18 like that?
 19 A. **No. But I believe they put -- if I had**
 20 **to stop and, say, lay down for a while, I could do**
 21 **that.**
 22 Q. Okay.
 23 A. **And then usually finish working or made**
 24 **up the time.**
 25 Q. Okay. So, yeah, like, my wife will be

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1 working at home and she might be sitting at her chair
 2 for too long and need to walk or to lay down or
 3 something.
 4 Is that a fair statement, like what you
 5 had?
 6 A. **Yes.**
 7 Q. Did you ever have any -- I guess, did
 8 that ever impact your job performance at UH?
 9 A. **No.**
 10 Q. Was it ever stopped? Did you ever have
 11 UH say, "You're not allowed to go lay down" or
 12 anything?
 13 A. **No.**
 14 Q. Okay. So that was one ailment.
 15 Is there any other -- in 2016 and 2017,
 16 before December 1, before your car accident, is there
 17 any other, I guess, physical impairments or mental
 18 impairments that you suffered in those two years?
 19 A. **Migraines.**
 20 Q. Migraines, okay. I guess, first of all,
 21 let me ask you, is there anything else? Then I'll go
 22 back to migraines and ask you like the back injury.
 23 Anything else?
 24 A. **No.**
 25 Q. Okay. So with the migraines -- so I

Page 24

1 guess just to be clear, so 2016 and 2017 up till
 2 December 1, your car accident at UH, the physical and
 3 mental impairment you had during that time were
 4 continuing back issues and migraines?
 5 A. **Yes. They went back way before.**
 6 Q. I understand. But in those two years,
 7 was there anything else? Did you have any other work
 8 restrictions aside from some FMLA or attendance? Any
 9 other work restrictions?
 10 A. **No.**
 11 Q. Okay. So tell me about the migraines.
 12 Was that just FMLA and sometimes you might have to
 13 take a break?
 14 A. **Yes.**
 15 Q. Okay. Did UH ever stop you from taking
 16 those breaks?
 17 A. **No.**
 18 Q. Okay. Did it impact your work
 19 performance?
 20 A. **No.**
 21 Q. Okay. So it sounds like in 2016 and 2017
 22 at UH, you had FMLA intermittent leave and sometimes
 23 you would have to take some extended leave for
 24 treatment, I assume, right?
 25 A. **Yes.**

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7 (Pages 25 to 28)

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1 Q. And aside from that, while you were at
2 work, you were able to perform all the essential
3 functions of your job.
4 Is that a fair statement?
5 **A. Yes.**
6 Q. And the only restrictions you had were, I
7 would, I guess, say it was minimal, as needed, you
8 might need to lay down either for a migraine or a back
9 injury?
10 **A. Yes.**
11 Q. Did that happen a lot or was that just
12 something you had the ability to do?
13 **A. There was a cluster of time, probably**
14 **starting in August, where the migraines and the**
15 **back --**
16 Q. August 2017?
17 **A. Yes.**
18 Q. Okay. Were flaring up, so to speak?
19 **A. Yes.**
20 Q. Okay. And how did it impact you? More
21 time off or what was the issue?
22 **A. Yes.**
23 Q. Okay. Okay. But in terms of when you
24 were at work, it was just simply there were times when
25 you needed to lay down or turn off the lights for a

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1 migraine or something like that?
2 **A. Yes.**
3 Q. And let's take out attendance right now.
4 Let's take out the attendance issues and let's just
5 talk about your work performance in 2016 and 2017.
6 Did anybody tell you that your work
7 performance when you were there at work was poor?
8 **A. No.**
9 Q. Okay. Did anybody raise any issues about
10 you taking maybe a short break to make sure your back
11 was okay or a migraine? Did any UH supervisors raise
12 any issues with that?
13 **A. I was told I was missing too much work**
14 **when I was getting injections in my back.**
15 Q. Okay.
16 **A. And I had been approved for vacation, and**
17 **they took it back and said because of having**
18 **injections and stuff, there was too much work that was**
19 **needed done.**
20 Q. Okay. And we'll get into the attendance
21 issues. But aside from attendance, where they might
22 say, hey, you've used up your vacation or you got
23 attendance points, let's take attendance out.
24 When you were at work, did any UH
25 supervisors raise issues or managers raise any issues

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1 about you needing to take short breaks for backaches
2 when you were at work doing your duties?
3 **A. Yes.**
4 Q. They did.
5 **A. At times, yes.**
6 Q. At times. Who? Who or when? Do you
7 have any --
8 **A. Cindi Roberts.**
9 Q. Okay. Do you have any specific dates or
10 issues?
11 **A. No. Just because of the backlog of**
12 **claims and stuff needed done.**
13 Q. Okay.
14 **A. I was, you know, cutting work at that**
15 **time.**
16 MR. CAMPBELL: Okay. Let me see
17 if I understand. I guess maybe we can
18 take one step back. Let me see if I have
19 a document here.
20 (Court Reporter marked
21 Defendants' Exhibit 1.)
22 BY MR. CAMPBELL:
23 Q. You've been handed what's been marked as
24 Exhibit 1. And we were talking about 2016 and 2017.
25 Did you hold the claims processor

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1 position?
2 **A. Yes.**
3 Q. Okay. And why don't you take a second to
4 look through this document and let me know if you
5 would consider this document an accurate
6 representation of your roles and responsibilities.
7 **A. (Witness complies.) Yes.**
8 Q. And so how long did you hold the claims
9 processor position?
10 **A. 16 years and 20 months [sic].**
11 Q. Okay. And so at all times during your
12 employment -- and I'm going to call it UH, but I think
13 there was a predecessor employer which became UH.
14 Is that a fair statement?
15 **A. Health Design Plus is what was started.**
16 Q. Okay. And then UH came in sometime
17 during your 16 years and 20 months?
18 **A. Yes.**
19 Q. Okay. I'm just going to call it "UH" for
20 ease of this.
21 **A. That's fine.**
22 Q. Were you always a claims processor during
23 your employment?
24 **A. Yes. I got promoted to senior claims**
25 **examiner.**

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8 (Pages 29 to 32)

Page 29

1 Q. Okay. And when did you get that
2 promotion approximately?
3 **A. I'm unsure.**
4 Q. Okay. Were you a senior claims examiner
5 when you were discharged?
6 **A. Yes.**
7 Q. Okay. So for 2016 and 2017, you were a
8 senior claims examiner?
9 **A. Yes.**
10 Q. Okay. Well, is there anything that when
11 we look at this claims processor, is there anything
12 that "senior" would add to this or is it just that pay
13 increase?
14 **A. Yes. I would get, say, problem claims or**
15 **claims that needed more attention or e-mails from**
16 **clients.**
17 Q. Okay. When did you start working from
18 home?
19 **A. It was shortly after I started. I was**
20 **the first one they tested. I would say 2003 possibly.**
21 Q. Okay.
22 **A. I'm unclear.**
23 Q. Okay. And you said, "tested," meaning
24 what?
25 **A. They wanted to see how it would work out.**

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1 Q. Okay. Okay. "Tested" meaning we're
2 going to let you work at home and see if this works?
3 **A. Yes. "We're going to do one person and**
4 **see how it works."**
5 Q. Okay. It wasn't, like, hey, we're going
6 to give you a test and see.
7 **A. No.**
8 Q. So you started working at home. I take
9 it it worked out and you continued to work at home at
10 least the last 14 years of your employment?
11 **A. Well, we had an office in Findlay. And**
12 **so we would work X amount, say, three days a week from**
13 **home and then go into an office and work two days in**
14 **the office. And then they shut the offices in Findlay**
15 **and then we purely were home.**
16 Q. Okay. So for 2016 and 2017, you purely
17 worked at home.
18 **A. Yes.**
19 Q. Okay. So let me ask you this.
20 I'm assuming that when we talk about, for
21 example, Cindi Roberts, that Cindi wasn't at your home
22 during the course of work.
23 **A. No.**
24 Q. Okay. And that Cindi, if she was raising
25 issues with you, was about this "Consistently meet

Page 31

1 production (22 to 25) claims per hour," not
2 necessarily "What were you doing 15 minutes ago?"
3 **A. I exceeded what they --**
4 Q. Okay. So what would Cindi raise with
5 you? When I asked you about did anybody ever raise
6 anything with you about breaks or anything, were you
7 saying that you had a backlog of claims?
8 **A. There was always a backlog of claims.**
9 Q. Okay. Okay. Well, let me just -- I
10 guess just to explain a little bit to me, then, what
11 is Health Design Plus? Are they a claims
12 administrator or what do they do?
13 **A. They're our TPA.**
14 Q. Okay. Third-party administrator.
15 **A. Yes.**
16 Q. Okay. For health plans, for various
17 health plans?
18 **A. For various companies.**
19 Q. Various companies, okay. So pick a
20 company, they have health insurance for their
21 employees, and they will contract with Health Design
22 Plus to be a third-party administrator.
23 **A. Yes.**
24 Q. So what you were doing was reviewing
25 health claims to determine -- I guess it says medical,

Page 32

1 dental, and vision -- to determine whether the plan
2 covered that, right?
3 **A. Yes. You know, whether we released a**
4 **claim to be paid or denied the claim for various,**
5 **whatever the company's policies were.**
6 Q. Okay. Did you have certain employers
7 that you were responsible for?
8 **A. Yes.**
9 Q. Okay. So those employers, those claims
10 would be coming and you would review those.
11 Were you the only representative, the
12 claims processor, on certain employers or were there
13 multiple?
14 **A. I had just a few that was my own and then**
15 **we had other employees that did the same plans.**
16 Q. Okay. Okay. And so if you were on one
17 of the plans that would be your own, I assume that if
18 you were behind, then that employer might say, hey,
19 there's a backlog. Whether you were the cause of it
20 or not, there's a backlog.
21 They might be getting complaints from
22 their employees about, "Hey, why isn't my claim
23 approved"?
24 **A. I would not hear that.**
25 Q. Okay. Is that what Cindi was hearing?

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9 (Pages 33 to 36)

Page 33

1 **A. I don't know what Cindi was hearing.**
 2 Q. Okay. So let me ask you, just, I guess,
 3 just to close the loop, then, as to my discussions as
 4 to back issues and migraines, on Exhibit 1 in 2016 and
 5 2017, aside from taking some breaks every now and
 6 then, did you need any other accommodations in order
 7 to perform these essential functions?
 8 **A. No.**
 9 Q. Okay. And working at home, I assume
 10 that -- did you clock in or what did you do?
 11 **A. Yes. We clocked in through --**
 12 Q. Your computer?
 13 **A. -- the computer.**
 14 Q. Okay. If you had to lay down, did you
 15 stay clocked in, or what did you do?
 16 **A. No. Clock out.**
 17 Q. And then you would end up still working
 18 your set hours each day?
 19 **A. Depending on, say, the severity of the**
 20 **migraine.**
 21 Q. Okay.
 22 **A. But a lot of times, I would try and make**
 23 **up the hours.**
 24 Q. Okay. So if you woke up one morning and
 25 had a migraine, you would then call the UH attendance

Page 35

1 like that?
 2 **A. No.**
 3 Q. Okay. Your performance, in your view,
 4 was good.
 5 **A. Yes.**
 6 Q. Okay. How much -- I guess let me ask you
 7 this. On a regular day when you didn't have to call
 8 off for migraines or back issues, you're working. You
 9 clock in and you're working.
 10 How much contact would you have on a
 11 regular day with your supervisors or managers? Would
 12 it be, like, just maybe checking in or would there be
 13 significant contact?
 14 **A. It varied.**
 15 Q. Okay. Well, I guess let me ask you this:
 16 Tell me, like, tell me a normal -- tell us a normal
 17 day that if you were -- you know, let's say -- did you
 18 work Monday through Friday?
 19 **A. Yes.**
 20 Q. Did you work 40 hours a week?
 21 **A. Yes.**
 22 Q. Okay. Tell us, say, that it's a Monday.
 23 You wake up, you're feeling fine, and you're going to
 24 work. Tell us about your day.
 25 What would be a typical day? How does

Page 34

1 and let them know about the migraine and FMLA, and you
 2 would take an FMLA day?
 3 **A. Not necessarily. I would try the**
 4 **migraine medicine first.**
 5 Q. Uh-huh.
 6 **A. And try to work.**
 7 Q. Okay. And then if not, you would --
 8 **A. If not, I would have to tell them I, you**
 9 **know, cannot work.**
 10 Q. Okay. Understood. So let me ask you --
 11 and we're going to get into the attendance.
 12 Aside from the attendance in 2016 and
 13 2017, did you have any written discipline for
 14 performance issues?
 15 **A. Not that I recall, no.**
 16 Q. Okay. So Cindi or other supervisors
 17 might have said, "Hey, we're getting a backlog" or
 18 "Hey, we've got to catch up on these."
 19 But aside from that, which probably
 20 happens with lots of claims processors, I assume if
 21 claims were coming through on a plan, your performance
 22 was good?
 23 **A. Correct, yes.**
 24 Q. Nobody said, "Hey, you're missing claims"
 25 or "You're violating the plan documents" or anything

Page 36

1 your workday start? Do you actually log in on your
 2 computer?
 3 **A. Yes.**
 4 Q. That's how you clocked in.
 5 **A. Yes.**
 6 Q. Okay. And when you log in to your
 7 computer, then, did you just start performing your
 8 task at that time?
 9 **A. Yes.**
 10 Q. Okay. Did you have to phone in or were
 11 the claims right there to review?
 12 **A. The claims were right there.**
 13 Q. Okay. And so when would you have contact
 14 with your supervisors or managers? Tell us, like, was
 15 it regular or only if an issue arose?
 16 **A. Only if an issue arose or they would,**
 17 **say, e-mail me if they needed something done or had a**
 18 **question.**
 19 Q. Okay. How did you typically -- I guess
 20 the e-mail brings up a good point.
 21 How did you typically communicate with
 22 your managers and supervisors?
 23 **A. E-mails.**
 24 Q. Okay. How often were, like, phone calls
 25 or in person?

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10 (Pages 37 to 40)

Page 37

1 **A. Rare.**
 2 **Q. Okay.**
 3 **A. The only time we did phone calls is when**
 4 **we would have, say, a meeting.**
 5 **Q. Okay. Then in person?**
 6 **A. No. It would be -- say we're sitting**
 7 **here. And whoever's in the main office, they would**
 8 **have the phone, conference phone on, and all of us**
 9 **processors that are working from home call in.**
 10 **Q. Okay. Sounds good, I understand. So**
 11 **then, in general, it sounds like your workday was**
 12 **pretty self-reliant.**
 13 **A. Yes.**
 14 **Q. You got the claims. You processed the**
 15 **claims. If you had an issue, you would e-mail or if**
 16 **your managers or supervisors had an issue, they would**
 17 **e-mail you?**
 18 **A. Correct.**
 19 **Q. Okay. Okay. So let me just ask you, as**
 20 **to the -- at some point, I guess, in time on the -- in**
 21 **2016, did you -- or was it 2015 -- did you go into a**
 22 **drug treatment program or rehab program?**
 23 **A. Yes, I did. January of 2016.**
 24 **Q. January of 2016, okay. So tell me, I**
 25 **guess, what led to that?**

Page 38

1 **A. I had been a patient with pain management**
 2 **for over ten years with my back. They had prescribed**
 3 **me 187-1/2-milligram Percocets every month.**
 4 **Q. Okay.**
 5 **A. I had just finally decided I had enough**
 6 **of taking them.**
 7 **Q. Okay.**
 8 **A. And I was unsure about how to go about**
 9 **getting off of them.**
 10 **Q. Okay.**
 11 **A. So I went to Arrowhead to get help.**
 12 **Q. Okay. What is Arrowhead?**
 13 **A. A rehab place.**
 14 **Q. Okay. Did you find that on your own or**
 15 **were you directed?**
 16 **A. No, I found that on my own.**
 17 **Q. Okay. So you went to the rehab at that**
 18 **time.**
 19 **And prior to entering rehab, did it**
 20 **impact your work at UH, the Percocet use?**
 21 **A. No.**
 22 **Q. Okay. Did anybody at UH, I guess, raise**
 23 **issues with you about it?**
 24 **A. No.**
 25 **Q. Okay. How long did you go into**

Page 39

1 Arrowhead?
 2 **A. I was there, I think, three days, if**
 3 **that.**
 4 **Q. Okay. Did you advise -- I saw in the**
 5 **complaint about, did you let your -- I guess, first of**
 6 **all, were the three days during workdays or a weekend?**
 7 **A. Let me think. I believe -- I think I**
 8 **went in on a Thursday, maybe.**
 9 **Q. Okay. And did you release yourself or**
 10 **were you released by the physician?**
 11 **A. I was released by the physician.**
 12 **Q. Okay. Did you let UH know that you were**
 13 **going into rehab, or how did that come about?**
 14 **A. Yes, I did.**
 15 **Q. You did, okay.**
 16 **Did you let your supervisors and managers**
 17 **know or when you say you let them know --**
 18 **A. HR.**
 19 **Q. Okay.**
 20 **A. And Cindi Roberts.**
 21 **Q. Okay. I thought I read something where**
 22 **you claimed that UH learned of that by mistake or UH**
 23 **shouldn't have learned that you were in rehab.**
 24 **Am I reading something wrong?**
 25 **A. When I filed for short-term disability.**

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1 **Q. Okay.**
 2 **A. Aetna -- I believe that was our**
 3 **short-term disability company -- thought -- excuse me.**
 4 **The nurse, director of nursing, Elizabeth**
 5 **at Arrowhead, thought she was talking to my disability**
 6 **company.**
 7 **Q. Okay.**
 8 **A. You know, and then at that point, they**
 9 **are allowed to release my medical, you know,**
 10 **information. And she was, in fact, talking to Angela**
 11 **Kuhlman, the HR manager at Health Design Plus. And**
 12 **Angela never stopped her and advised her that she was**
 13 **talking to the wrong company.**
 14 **Q. Okay. Let me -- I guess let me just try**
 15 **to understand this a little bit.**
 16 **You went into rehab in January of 2016,**
 17 **right?**
 18 **A. Yes.**
 19 **Q. Why would you be applying for short-term**
 20 **disability if it was only going to be three days?**
 21 **A. Because when I got -- was released, I had**
 22 **a return-to-work release and they would not let me go**
 23 **back.**
 24 **Q. Okay. Okay. So let's take a step back.**
 25 **So this started with, you had been on**

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11 (Pages 41 to 44)

Page 41

1 pain medications for a decade.
 2 **A. Correct.**
 3 Q. You ultimately concluded that, "Hey, this
 4 is too much, I don't want to continue to take these
 5 every day."
 6 **A. Yes.**
 7 Q. You voluntarily check yourself into
 8 Arrowhead?
 9 **A. Yes.**
 10 Q. And I thought that you said that when you
 11 were checking into Arrowhead, because you're going to
 12 miss work, that you let UH know that you were going to
 13 Arrowhead.
 14 Or did I hear that wrong?
 15 **A. No, I advised them what I was doing.**
 16 Q. Okay. So you did advise Arrowhead, "I'm
 17 going into rehab."
 18 Did you tell them that you were, "I'm
 19 trying to" -- I guess, wean yourself off the pain
 20 medication? Did you let them know?
 21 **A. Yes.**
 22 Q. Okay. So you went to Arrowhead.
 23 And then, I guess, you didn't apply for
 24 short-term until after you were out of Arrowhead,
 25 right?

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1 **A. I believe I was -- I had started**
 2 **short-term disability, because my understanding or**
 3 **what I thought rehab was would have been longer than a**
 4 **three-day stay.**
 5 Q. Okay. So when you went in, you thought
 6 it was going to be more than three days?
 7 **A. Yes.**
 8 Q. Okay. That's when you applied for
 9 short-term disability?
 10 **A. Yes.**
 11 Q. Okay. So let me ask you, when you had
 12 already told, when you thought you were going to miss
 13 a lot of work, I guess, or more than three days, you
 14 called HR and you told Cindi Roberts, "I'm going into
 15 Arrowhead," right?
 16 **A. Angela Kuhlman was the HR and Cindi**
 17 **Roberts was my manager.**
 18 Q. Okay. So you let them both know, "I'm
 19 able to do my job, but I'd like to get off these pain
 20 medications. I think I need help to do that, and I'm
 21 going to go into Arrowhead."
 22 **A. Yes.**
 23 Q. Okay. Is that a fair statement? I guess
 24 you probably had a longer conversation, but you
 25 basically told them, "I'm going into rehab

Page 43

1 voluntarily," number one, right?
 2 **A. Yes.**
 3 Q. "I've been on pain medications and I'd
 4 like to get off them," right?
 5 **A. They were aware that I was on them.**
 6 Q. Okay. But you were hoping to get off
 7 them through rehab.
 8 **A. Yes.**
 9 Q. You told them that you were able to do
 10 your work, it didn't cause you problems with
 11 processing claims, right?
 12 **A. Correct.**
 13 Q. But you wanted off. And I guess at that
 14 point, you told them that you thought you might be in
 15 for longer than three days.
 16 Did you have any idea how long you
 17 thought you might be in?
 18 **A. Well, I mean, my perception of going to**
 19 **rehab is, you know, maybe a 30-day stay of how do you**
 20 **get from Point A to Point B.**
 21 Q. Yes.
 22 **A. You go through counseling. And it was**
 23 **nothing that I ever thought it was.**
 24 Q. Okay. And when you talked to Cindi and
 25 Angela, I take it that you said to them, because you

Page 44

1 thought you were going to be out for a longer period
 2 of time, you'd like to file for short-term disability
 3 benefits?
 4 **A. Yes.**
 5 Q. Okay. Then you go to Arrowhead.
 6 **A. I had already called Aetna.**
 7 Q. Okay. To start the --
 8 **A. Yes.**
 9 Q. Okay.
 10 **A. To start the process.**
 11 Q. So you go to Arrowhead.
 12 How did Arrowhead and Angela start to
 13 talk? Did Arrowhead call her? Did she call
 14 Arrowhead?
 15 **A. Arrowhead thought they were talking to my**
 16 **short-term disability company.**
 17 Q. Okay. But let me ask you, do you know --
 18 and I'll let you say all this, but do you know if
 19 Angela phoned them? Did they phone Angela? How did
 20 the conversation start?
 21 **A. I am unclear of who --**
 22 Q. Initiated?
 23 **A. -- initiated.**
 24 Q. Okay. So let me ask you this question
 25 now, and then you can tell me everything that

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12 (Pages 45 to 48)

Page 45

1 happened.
 2 If you had already told Angela all of the
 3 facts, right, "I've been on pain medication for ten
 4 years, I'm trying to get off pain medication, I'm
 5 going into rehab," what could Arrowhead have told her
 6 that was, I guess, different than what you'd already
 7 told Angela?
 8 **A. Anything that I would have personally**
 9 **said, any issues, any problems, personal problems.**
 10 Q. Okay. So you're saying -- what did
 11 Arrowhead tell you that they told Angela? Or that
 12 Angela said that she learned from Arrowhead, what do
 13 you think they told her during that call?
 14 **A. I'm unclear what was said.**
 15 Q. Okay.
 16 **A. How I found out about it, because I was**
 17 **not getting any money.**
 18 Q. Uh-huh.
 19 **A. So I called Aetna and they said they had**
 20 **been trying to call.**
 21 Q. Okay.
 22 **A. And cannot get anywhere. So I called**
 23 **Arrowhead and I asked Elizabeth -- she's the director**
 24 **of nursing there --**
 25 Q. Yeah.

Page 46

1 **A. -- who she had been talking with at**
 2 **Aetna, did she have a name, you know, so I can call**
 3 **them and say, you know, "What is the problem here?"**
 4 **And she said yes and I asked for the name**
 5 **and she said Angela Kuhlman.**
 6 Q. Okay.
 7 **A. And I then said that they were talking to**
 8 **my employer.**
 9 Q. Okay. Okay. Did you say, "What did you
 10 tell Angela" or anything like that; do you know?
 11 **A. No.**
 12 Q. Okay. Okay. Well, I guess I'd have to
 13 say, I mean, one, you don't know what was said.
 14 Number two, if you've already told them,
 15 I just can't imagine anything else that Angela could
 16 learn from them.
 17 **A. Well, if I had, say, personal things that**
 18 **I discussed, she didn't need to know that information.**
 19 Q. Okay. But I guess you don't know if any
 20 personal things that you discussed with Arrowhead were
 21 given to Angela or not.
 22 **A. No, I do not.**
 23 MR. CAMPBELL: Okay. That's
 24 fair. I just wanted to understand. I
 25 saw that in the complaint and I just

Page 47

1 wanted to understand.
 2 Let me mark Exhibit 2.
 3 (Court Reporter marked
 4 Defendants' Exhibit 2.)
 5 BY MR. CAMPBELL:
 6 Q. Have you ever seen Exhibit 2 before
 7 today?
 8 **A. No. But number 10 is absolutely**
 9 **incorrect.**
 10 Q. Number 10 is incorrect? And it says,
 11 "Patient states reason for admission is," and it
 12 states, quote, "to get off heroin."
 13 **A. Correct.**
 14 Q. Okay. So you're saying you weren't --
 15 did you ever take heroin?
 16 **A. Absolutely not.**
 17 Q. Okay. So I guess the things that are
 18 correct are the date.
 19 Do you have any reason to disagree that
 20 it was on January 14th, 2016, that you were admitted
 21 into Arrowhead?
 22 **A. No.**
 23 Q. Okay. It does say, "Fall risk" and
 24 "Chronic pain."
 25 When it says, "fall risk," was that an

Page 48

1 accurate statement?
 2 **A. I believe, just estimating, they put**
 3 **"fall risk" for patients.**
 4 Q. Okay. Okay. So then they must have
 5 misunderstood or misheard when they put this quote to
 6 get off heroin?
 7 **A. Correct.**
 8 Q. Okay. Was there ever a time that the
 9 pain medication that the pain management company had
 10 prescribed to you wasn't enough each day and you
 11 somehow got more?
 12 **A. No. I never took heroin.**
 13 Q. Okay. Did you buy prescriptions to take
 14 more prescriptions than what they prescribed?
 15 **A. A few times I did, yes.**
 16 Q. Okay. Meaning that you just took more
 17 that day or that you bought them through some other
 18 source?
 19 **A. Both.**
 20 Q. Both, okay. How would you, I guess, buy
 21 them? Did somebody have another prescription or how
 22 were you able to --
 23 **A. Yes.**
 24 Q. Okay. A friend?
 25 **A. Yes.**

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13 (Pages 49 to 52)

Page 49

1 MR. CAMPBELL: Okay. Mark this
2 Exhibit 3.
3 (Court Reporter marked
4 Defendants' Exhibit 3.)
5 BY MR. CAMPBELL:
6 Q. Okay. You can take a look at these
7 documents and I guess let me know when you're ready
8 for me to ask you some questions.
9 A. (Witness complies.)
10 Q. Okay. Was there anything in there that
11 you found was incorrect in looking back at it?
12 A. **Definitely the statement they put in**
13 **there of heroin.**
14 Q. Where was that? I didn't see that.
15 What number on the bottom?
16 A. **Oh, I'm sorry. It's (indicating) --**
17 Q. Okay. I'm talking about this document.
18 I didn't see "heroin" in Exhibit 3.
19 A. **I cannot understand what this word is on**
20 **the suicide list.**
21 Q. What's the bottom number there?
22 A. **It says 284.**
23 Q. Okay. You can't read what or understand
24 what?
25 A. **What is the -- because it looks like**

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1 **there's a hole there, what that word is.**
2 Q. Okay. I get it. I think it's something
3 risk factors, you're saying?
4 A. **I understand that. But I don't know what**
5 **the first word is, because they've marked "impaired**
6 **judgment," so I'm unclear as to what the first word**
7 **is.**
8 Q. Okay. Yeah. I'm having trouble seeing
9 that, as well.
10 So did you have impaired judgment at the
11 time or no?
12 A. **No, I do not believe so.**
13 Q. Okay.
14 A. **Also, it said I thought -- or tried to**
15 **commit suicide is not -- do you have -- let's see**
16 **where that is.**
17 **284, "Have you had any thoughts of death**
18 **or suicide in the past" and they marked it "yes" and**
19 **put "years ago."**
20 **I don't ever remember making that**
21 **statement.**
22 Q. Okay. That's fair. I read in here, let
23 me just ask you, that at this time the Xanax you were
24 taking was not prescribed and you were getting it
25 through some other source.

Page 51

1 Is that accurate?
2 A. **At that time, correct.**
3 Q. Okay. Was that through a friend, or how
4 were you getting the Xanax?
5 A. **Yes.**
6 Q. And did you get prescribed that after the
7 rehab, the Xanax?
8 A. **The Xanax didn't start until July of**
9 **2016.**
10 Q. Okay.
11 A. **When all this stuff started.**
12 Q. Okay. Okay. And we'll take a break here
13 in a moment. Let me just conclude this part.
14 So you went into Arrowhead voluntarily?
15 A. **Yes.**
16 Q. You did advise UH of the fact that you
17 were going into Arrowhead and of the pain medication,
18 I guess.
19 Did you describe it then as an addiction
20 or what did you say?
21 A. **No. I just told them I'd had enough. I**
22 **wanted to get off of it. I probably told them I**
23 **didn't know how to do it and I was going to get some**
24 **help.**
25 Q. Okay. And then when you were released

Page 52

1 from Arrowhead, you're saying that's when the issues
2 came about. You were released to return to work and
3 UH wanted to see if you had restrictions?
4 A. **I had no restrictions. I had a**
5 **return-to-work note in my hand from this doctor.**
6 Q. Okay. Understood. But you could see
7 that, if you're UH and you said you were going into
8 rehab -- as you said, three days doesn't get you off
9 of pain medication, right?
10 A. **But it did. I only took their medicine**
11 **for, like, a day and a half and then quit it.**
12 Q. Okay. I understand. But most people, if
13 they had been on pain medication for ten years,
14 probably in three days they don't stop, right?
15 A. **That would be a fair statement. But in**
16 **my case, I did.**
17 Q. Okay. Understood. But you could see a
18 reasonable employer saying, hey, we want to make sure
19 that you're able to return to work and that you don't
20 need any accommodations or restrictions.
21 Is that fair? I mean, most employees
22 aren't, after three days --
23 A. **It had, on my return-to-work note and the**
24 **doctor's discharge note, "Return to regular**
25 **activities."**

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14 (Pages 53 to 56)

Page 53

1 Q. Okay. Understood. But --
 2 **A. And then Cindi came on the phone and said**
 3 **she didn't think she could trust me anymore.**
 4 Q. Okay. I guess I have to say to you,
 5 let's turn it differently. Let's say in 15 years, one
 6 of your sons comes to you and says, "I've been on pain
 7 medication. I didn't tell you, but I've been taking
 8 pain medication for ten years. I'm having a difficult
 9 time getting off."
 10 They go into rehab, they're only there
 11 three days. You may have doubts after three days
 12 that, if they didn't know how to get off of it four
 13 days ago, how does going into rehab three days, all of
 14 a sudden they do know how to get off?
 15 Is that somewhat of a fair statement?
 16 **A. I guess it depends on somebody's brain.**
 17 Q. Okay. Well, I guess, put yourself into
 18 the shoes of the HR and they talked to their long-term
 19 employee who they had no idea that you were taking
 20 pain medication even, right?
 21 **A. No. They had every knowledge.**
 22 Q. Okay.
 23 **A. They knew I was on it.**
 24 Q. Okay. Let me rephrase it. They had no
 25 idea you believed it was a problem.

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1 **what the insurance company approves for you to -- your**
 2 **stay.**
 3 Q. Okay. Well, let me ask you one final
 4 question on it, then.
 5 If somebody called you up on a Thursday
 6 and said, "I'm going into rehab because I've been on
 7 pain medication for ten years and I don't know how to
 8 get off of it," right?
 9 That's what you called and said to HR at
 10 UH, right?
 11 **A. Correct.**
 12 Q. And then three days later or four days
 13 later, you're saying, "I now know how to get off of it
 14 and I'm fine and I'm getting ready to return to work,"
 15 would you not potentially have a few doubts about that
 16 if you were the person receiving those two
 17 communications?
 18 **A. I would -- in my opinion?**
 19 Q. Yes. Yeah.
 20 **A. I would look at how their work history**
 21 **has been and base it off of that. And if you have**
 22 **gone to this facility and this doctor has said okay,**
 23 **she is now fine, she is clean, she does not need the**
 24 **Suboxone, you know, to stop the cravings -- you know,**
 25 **that's what I learned being there -- no, I wouldn't.**

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1 **A. Correct.**
 2 Q. They get a phone call. You say you're
 3 going into rehab. You tell them that you think you're
 4 going into rehab for maybe a month, right?
 5 **A. I did not tell them any specific time.**
 6 Q. Okay. Well, if you're asking for
 7 short-term disability, certainly they're going to
 8 assume it's more than three days?
 9 **A. Well, that's what I assumed when we made**
 10 **the appointment to go to Arrowhead. I assumed, you**
 11 **know, rehab was a long-term --**
 12 Q. Yes.
 13 **A. -- thing. So that's why I contacted**
 14 **Aetna to go ahead and start short-term disability.**
 15 Q. Yes. Understood. But you also told that
 16 information, "I'm applying for short-term disability,"
 17 to HR and your boss, right?
 18 **A. I do not believe I told them.**
 19 Q. Okay. Well, I guess what I'm saying, if
 20 you thought you were going to be missing a significant
 21 amount of time, I think you probably told HR and your
 22 boss, "Don't expect me into work next week. I'm
 23 applying for FMLA and short-term disability," right?
 24 **A. I did not tell them any amount of time.**
 25 **I didn't know how long I would be there, let alone**

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1 Q. Okay. Well, I guess I would say this
 2 isn't a situation where you visited the office every
 3 day, right? You were working at home?
 4 **A. Yes.**
 5 Q. They couldn't see how you appeared at
 6 work, whether you came in and looked professional
 7 every day or whether you appeared to be drowsy. All
 8 they got were e-mails most of the time, and rarely
 9 they would communicate with you verbally, right?
 10 **A. We were audited by our work. We had a**
 11 **percentage every day of our work. We had a limit, a**
 12 **release limit, on high-dollar claims. They would be**
 13 **audited. All my work performances and reviews have**
 14 **been almost perfect.**
 15 Q. Okay. So you don't think that anybody
 16 should have had any concerns at all about you
 17 returning four days later and saying, "Now I'm cured.
 18 Four days ago, I didn't know how to get off of this,
 19 but now I'm cured?"
 20 **A. Not when you have a doctor saying, you**
 21 **know.**
 22 Q. Okay. Well, I guess we'll agree to
 23 disagree on that point, then. Why don't we take a
 24 short break and we'll come up and we'll address after
 25 you got out of rehab and through the end of your

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15 (Pages 57 to 60)

<p style="text-align: right;">Page 57</p> <p>1 employment.</p> <p>2 A. Okay.</p> <p>3 (Brief recess was had.)</p> <p>4 (Court Reporter marked</p> <p>5 Defendants' Exhibit 4.)</p> <p>6 BY MR. CAMPBELL:</p> <p>7 Q. We're now at Exhibit 4. If you want to</p> <p>8 look through it and let me know when you're ready to</p> <p>9 respond.</p> <p>10 A. (Witness complies.) Okay. So this goes</p> <p>11 from Arrowhead into Firelands, correct? Is that what</p> <p>12 I'm --</p> <p>13 Q. Well, I guess, have you had an</p> <p>14 opportunity to look through this?</p> <p>15 A. Yes. And I have some -- but I have</p> <p>16 not --</p> <p>17 Q. Okay. Well, read that final page and let</p> <p>18 me know when you're ready to go.</p> <p>19 A. (Witness complies.)</p> <p>20 Q. Okay. So I guess in looking at these</p> <p>21 documents, it looks like these are -- I guess let me</p> <p>22 see if I'm correct.</p> <p>23 When I read this through, it looks like</p> <p>24 you went into Arrowhead after verifying it would be</p> <p>25 covered by your insurance at UH.</p>	<p style="text-align: right;">Page 59</p> <p>1 And I said, "Because I do insurance."</p> <p>2 And he said, "Yes, they did deny you</p> <p>3 having IOP and PHP."</p> <p>4 Q. Meaning -- give me those.</p> <p>5 "IOP," what's that mean?</p> <p>6 A. Outpatient -- no, inpatient --</p> <p>7 Q. Tell us in simple terms without the</p> <p>8 abbreviations.</p> <p>9 What was denied? What did you think was</p> <p>10 denied?</p> <p>11 A. IOP and PHP.</p> <p>12 Q. Okay. Without the abbreviations, what</p> <p>13 was it? Inpatient or what was it? Continuing</p> <p>14 treatment at Arrowhead?</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. So insurance said we're only going</p> <p>17 to pay three days at Arrowhead?</p> <p>18 A. Inpatient, yes.</p> <p>19 Q. Inpatient. And is it true that you</p> <p>20 didn't like group, you'd rather have individualized?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And then you're saying that you</p> <p>23 did agree to do outpatient. You didn't tell them no.</p> <p>24 You were going to do outpatient somewhere, you just</p> <p>25 hadn't decided yet?</p>
<p style="text-align: right;">Page 58</p> <p>1 A. Correct.</p> <p>2 Q. And it was individualized, not group</p> <p>3 therapy, at Arrowhead.</p> <p>4 Is that an accurate statement?</p> <p>5 A. It was all group.</p> <p>6 Q. It was all group, okay. But it was</p> <p>7 supposed to be, you thought it was going to be</p> <p>8 individualized.</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And what they were telling you is</p> <p>11 that your insurance only paid for three days of</p> <p>12 Arrowhead.</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And then they were suggesting</p> <p>15 that, I guess there was a couple options that you</p> <p>16 could go to, either an outpatient that your insurance</p> <p>17 would pay, they would verify that your insurance would</p> <p>18 pay, and I think you said no to that.</p> <p>19 A. That is untrue.</p> <p>20 Q. Okay. What's untrue about it?</p> <p>21 A. I never denied that I would, you know,</p> <p>22 not follow up. When the provider discharged me, I</p> <p>23 actually asked him, I said, "I take it my insurance</p> <p>24 denied your IOP and PHP program."</p> <p>25 And he said, "How do you know that?"</p>	<p style="text-align: right;">Page 60</p> <p>1 A. I said I wanted to follow up with my</p> <p>2 family physician, which was true.</p> <p>3 Q. Okay.</p> <p>4 A. I actually got a call from Anthem.</p> <p>5 Q. Okay.</p> <p>6 A. Their case management.</p> <p>7 Q. Okay.</p> <p>8 A. They are the ones that asked me if I</p> <p>9 would be interested in going to counseling.</p> <p>10 Q. Meaning the first time or after?</p> <p>11 A. After.</p> <p>12 Q. Okay.</p> <p>13 A. And their care-management program.</p> <p>14 Q. Okay.</p> <p>15 A. And I thought, "Probably wouldn't hurt."</p> <p>16 Q. Okay. Well, I guess, what I see here on</p> <p>17 the final page, it looks like, obviously when you</p> <p>18 reported that you were going into rehab, it look like</p> <p>19 HR and/or your supervisor notified the EAP program at</p> <p>20 UH.</p> <p>21 A. No.</p> <p>22 Q. No, okay. Well, if you look at this</p> <p>23 final page here, it talks about the client's EAP,</p> <p>24 which obviously was UH.</p> <p>25 A. This didn't start until July, six months</p>

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16 (Pages 61 to 64)

Page 61

1 **later.**
 2 Q. Okay. So you're saying this final page
 3 here is July.
 4 A. Yes.
 5 Q. Okay. Well, I guess I would say it looks
 6 like, I will say when you look at these documents and
 7 you look at the BHP and whatnot, it looks to me that
 8 this one -- I mean, if you look through, "Declined the
 9 Following: At the conclusion of the assessment, BHP
 10 began to discuss with the client the treatment course
 11 that she would take and that we would verify IOP was
 12 covered by her insurance."
 13 A. **When I was called and put on**
 14 **administrative leave, I was told I was going for a**
 15 **fit-for-duty evaluation.**
 16 Q. Yes.
 17 A. **On the form, there are three boxes.**
 18 Q. Okay.
 19 A. **Fit-for-duty evaluation, hostile**
 20 **employee, or suspicion of drug and alcohol.**
 21 Q. Okay. So they said fitness for duty.
 22 A. Yes.
 23 Q. Okay.
 24 A. **And then they wrote "other attendance."**
 25 **I had no -- nobody informed me I was going for a**

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1 did UH do when you returned to work?
 2 A. **I really had to fight, because they**
 3 **had -- where is the doctor's actual discharge papers?**
 4 Q. Okay. Here's all I want to know. You
 5 come back with discharge papers.
 6 Did they let you return to work or not in
 7 January 2016? That's all I'm asking right now first.
 8 A. **When I had the return to work?**
 9 Q. Uh-huh.
 10 A. **No. That said on this date, she can**
 11 **return?**
 12 Q. Yes.
 13 A. **No, they did not.**
 14 Q. Okay. Is that when they sent you for the
 15 fitness for duty?
 16 A. **No.**
 17 Q. Okay. What did they do? That's all I'm
 18 trying to get to. What did they do?
 19 A. **I had to really fight. And that's why**
 20 **it's marked true, true, false. Because this is the**
 21 **nursing discharge notes.**
 22 Q. Uh-huh.
 23 A. **And that's why I'm asking where is the**
 24 **actual doctor's discharge papers, because this is**
 25 **saying I declined to do more treatment, outpatient**

Page 62

1 **chemical dependency evaluation.**
 2 Q. Okay. So that's when you returned from
 3 the leave, or attempted to return from the leave of
 4 absence?
 5 A. **No.**
 6 Q. Okay.
 7 A. **I had already been back to work for six**
 8 **months.**
 9 Q. Just so I understand. Just take me
 10 through it.
 11 So you go into Arrowhead, right, for
 12 three days, right? You have to say, "yes."
 13 A. Yes.
 14 Q. I thought you said that when you were
 15 leaving, you gave a release to return to work and UH
 16 said we're not going to honor that, we need you to do
 17 some other things before you return to work.
 18 A. **They had, because of the information,**
 19 **whatever was said to them.**
 20 Q. Okay.
 21 A. **From Arrowhead to Angela, I do not know.**
 22 Q. Uh-huh.
 23 A. **And I had Elizabeth, the director of**
 24 **nursing, retract her statement.**
 25 Q. Okay. Just tell me what happened. What

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1 **treatment.**
 2 **And I said, "Who are we going to believe?**
 3 **A nurse or the doctor?"**
 4 Q. Okay. Okay. All I'm asking you right
 5 now is: You come to UH, you say, "Here's my release,
 6 I want to start working at home again."
 7 You said UH said no to that initially in
 8 January of 2016, right?
 9 A. **Yes. And that's also when Cindi Roberts**
 10 **said, "I don't think I can trust you anymore."**
 11 Q. Okay. As soon as we get through this
 12 timeline, I'm going to say you can fire away and say
 13 whatever you want. Just give me this. I'm just
 14 trying to get through this.
 15 You come back, "Here's my release to
 16 return to work."
 17 UH says, "No, you're not returning,"
 18 right? Yes or no?
 19 A. **Yes.**
 20 Q. Okay. What did UH do? What did you have
 21 to do to get back to work?
 22 A. **I faxed Angela Kuhlman this. I faxed**
 23 **her --**
 24 Q. "This" being Exhibit 4?
 25 A. **This paper here, the nursing discharge**

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17 (Pages 65 to 68)

Page 65

1 **note only.**
 2 Q. Okay.
 3 **A. And the doctor's discharge paper.**
 4 Q. Okay. How long did it take before they
 5 put you back to work?
 6 **A. I cannot recall how long.**
 7 Q. A day? Weeks? Month?
 8 **A. It might have been a week. I cannot**
 9 **recall when.**
 10 Q. Okay. So a week you're out -- let's say
 11 it's a week. You return to work.
 12 And when you return to work, that's when
 13 they say the EAP program is going to be put in?
 14 **A. No.**
 15 Q. No, okay. What happens? You return to
 16 work and nothing? You're just back?
 17 **A. I returned to work. Everything was fine.**
 18 Q. Okay. When did they let you know the EAP
 19 program was going to be applicable?
 20 **A. July.**
 21 Q. July, okay. So you're saying that the
 22 EAP program, you went into rehab, they asked you --
 23 did you do outpatient from January until July? Did
 24 you do outpatient treatment for your addiction?
 25 **A. I, on my own, saw a counselor. And it**

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1 show you another document.
 2 (Court Reporter marked
 3 Defendants' Exhibit 5.)
 4 THE WITNESS: Who is this from?
 5 BY MR. CAMPBELL:
 6 Q. I believe that is when you began with
 7 your therapist you were telling me about.
 8 **A. Okay. That would have been January that**
 9 **I went voluntarily.**
 10 Q. Okay. I guess I would say what I read
 11 here is that your counselor -- you were asking at this
 12 time for FMLA paperwork and your counselor needed to
 13 do a little bit more, I guess, examination in order to
 14 determine whether she could fill that out, right?
 15 **A. HR stated I had to have FMLA papers**
 16 **filled out.**
 17 Q. Okay. And she -- from what I'm reading
 18 here, this counselor was concerned that you may still
 19 be on pain medications as of this date, the January
 20 26, 2016, date, right?
 21 **A. I do not believe that to be true. I had**
 22 **somebody else with me in her office.**
 23 Q. Okay. Well, I guess if we look at it, it
 24 says, her last sentence in "Summary of Session", "I
 25 was not sure she was ready to go back," meaning go

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1 **wasn't necessarily to talk about addiction. It was,**
 2 **you know --**
 3 Q. Okay. Did you go to any actual
 4 outpatient or inpatient rehabilitation?
 5 **A. No.**
 6 Q. Okay. And then what is your
 7 understanding of why the EAP program was triggered?
 8 **A. I got a call. I was on vacation the week**
 9 **of July 4th. I worked that following Monday. That**
 10 **following Tuesday, I worked four hours and received a**
 11 **phone call from Angela Kuhlman and Robby Kordish**
 12 **stating I was being put on administrative paid leave,**
 13 **that EAP would be contacting me.**
 14 **That is when EAP contacted me and stated**
 15 **I was put on administrative paid leave due to an**
 16 **accusation of slurred speech.**
 17 Q. Okay. So you're saying that at some
 18 point in time, somebody reported that there was cause
 19 for you to go into the EAP program?
 20 **A. I had to go, obviously, through the fit**
 21 **for duty, which ended up being a chemical-dependency**
 22 **evaluation.**
 23 Q. In July?
 24 **A. In July.**
 25 MR. CAMPBELL: Okay. Let me

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1 back to work.
 2 Did I read that right?
 3 **A. If that's what she said. I was not told**
 4 **that.**
 5 Q. Okay. Well, I guess, when we were asking
 6 those questions about whether UH may have had doubts,
 7 it looks like this counselor had some doubts.
 8 And then it says in "Client Progress",
 9 "Appeared a bit sedated. States she has not used
 10 since going to Arrowhead, but this is not verified.
 11 Would want a tox screen."
 12 Did I read that correct?
 13 **A. That's what it said. But I was not, you**
 14 **know, sleeping, and then....**
 15 Q. I understand. She's a counselor who was
 16 there to look at that, and so certainly you would say
 17 that you would give it some credibility, somebody
 18 looking at it saying, "Hey, there's enough here to say
 19 that I think we need to go do a tox screen," correct?
 20 **A. I don't know if, on the very first visit,**
 21 **if that's accurate to assume.**
 22 Q. I guess if you're asking somebody to
 23 release me to return to work, she's saying, "I don't
 24 know if you're capable of returning to work yet. I
 25 need to make sure you are," right?

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18 (Pages 69 to 72)

Page 69

1 I mean, that would be something she
2 should do, right?

3 **A. She would. But I already had a**
4 **return-to-work note.**

5 MR. CAMPBELL: Mark this.
6 (Court Reporter marked

7 Defendants' Exhibit 6.)

8 BY MR. CAMPBELL:

9 Q. I'll show you what's been marked as
10 Exhibit 6. Let me just take you through it, just so
11 we can move through. And you're welcome to read it.

12 Page 1, I read there, if you look at Page
13 1 on the handwriting, it says, "12 steps meeting, did
14 not attend."

15 Is that an accurate statement?

16 **A. Yes.**

17 Q. Okay. I take it that you decided, what,
18 they weren't helpful or you didn't like them? What
19 was the problem?

20 **A. I felt like people were just hugging into**
21 **each other. And that's not what I wanted, you know.**

22 Q. Okay. Let's go to the last page of this
23 exhibit first. They're in reverse chronological order
24 there. So if we look at the last page, this one is
25 your follow-up appointment with your therapist on

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1 **A. She wanted to drug screen me and I had to**
2 **pay for the drug screens. I had no problems with her**
3 **drug screening me.**

4 Q. Okay. And "We discussed her taking
5 this," the drug screen, "to her doctor's office to use
6 that there."

7 Did I read that right?

8 **A. Yes. And I did that.**

9 Q. Okay. Because she wanted not just for
10 you to do it at home --

11 **A. Right.**

12 Q. -- but for you to do it at your doctor's
13 office?

14 **A. Correct.**

15 Q. Okay. Okay. So at that point in time,
16 February, your counselor is still saying, hey, you
17 should be going to AA.

18 It looks like at that point you were
19 going to AA and that you were supposed to be doing
20 drug tests?

21 **A. I did the drug testing.**

22 Q. Okay. Let's look at the next page, 315.
23 If you turn the next page from the back.

24 No, no. It goes reverse, I'm sorry.

25 You've got to go to the second page. Turn to

Page 70

1 February 26, 2016.

2 Do you see that at the top? Last page of
3 this. I know it's confusing. Last page says February
4 26, 2016.

5 Do you see that?

6 **A. Yes.**

7 Q. Okay. At this point, it says stressful
8 workday, so I assume by this time, you're back to work
9 at UH.

10 **A. Yes.**

11 Q. Okay. And it goes through and it does
12 state there at the end of the first sentence, the
13 "Summary of Session", "She states she went to four of
14 six 12-step meetings but missed two due to a bad cold
15 this week."

16 Did I read that right?

17 **A. Yes.**

18 Q. Okay. And then the book with signatures
19 would be to verify that you were there.

20 **A. Yes.**

21 Q. Okay. And then it looks like if you go
22 onto that through the summary, "She checked into drug
23 store UAs and she found a 4 panel with opiate screen
24 for \$24."

25 Did I read that right?

Page 72

1 3/15/2016. Yes, that one.

2 Do you see that one, 3/15/2016? Do you
3 see the date up top?

4 **A. Yes.**

5 Q. Okay. And then if we look at "Summary of
6 Session," it says you brought to session a drug screen
7 signed by Nancy Martin that was negative for cannabis,
8 cocaine, and opiates.

9 Do you see that?

10 **A. Yes.**

11 Q. And then it says, "She forgot again to
12 bring her slips for AA meetings."

13 Did I read that right?

14 **A. Correct.**

15 Q. And then I guess she was asking if you
16 actually attended those meetings since she hadn't
17 gotten signatures.

18 Did I read that right?

19 **A. Yes.**

20 Q. Okay.

21 **A. And I did attend the meetings. You know,**
22 **people just want to get out of there and I just forgot**
23 **to get them signed.**

24 Q. Okay. And at this point, I guess you're
25 talking about the recovery. It looks like, at this

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19 (Pages 73 to 76)

Page 73

1 point, from what she's saying, things are going well,
2 at least from what you're reporting, right?

3 **A. Correct. She is stating that I'm much**
4 **better.**

5 Q. Okay. If you turn the page forward, the
6 next page, it's a discharge summary, right?

7 **A. Yes. Because she was leaving her**
8 **practice she worked at.**

9 Q. Okay. Well, let's see if there's
10 anything more, because it looks like to me, there's a
11 little more to it than that with this. So let's look
12 at "Summary of Progress."

13 It says you attended a few sessions, and
14 we saw that, right?

15 **A. Yes.**

16 Q. And then it talked about, she understood
17 why she needed to be clean but underestimated what it
18 would take to stay clean.

19 Did I read that right?

20 **A. If that's what she said.**

21 Q. Well, I'm just reading it.

22 **A. Yes.**

23 Q. Okay. And then it goes on to say -- this
24 is what I was reading about this -- "This was
25 evidenced by her not following through with going to

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1 words, long delays in responding) so she most likely
2 has relapsed. The EAP states that her toxicology now
3 will be mandatory and I gave her the name of Century
4 Health, as they have the most options for AoD."

5 Did I read that right?

6 **A. I don't know how she can say I probably**
7 **relapsed when she hadn't seen me.**

8 Q. Well, but you understand that she hadn't
9 seen you enough because she says, "You're doing great
10 and I don't need to see you." You didn't go back.

11 **A. I had the reason why I didn't go back.**

12 Q. Okay. And then she kept saying to you --
13 I mean, you realize, it's kind of like if I go to
14 school and I don't have my homework and I say that the
15 dog ate it.

16 If every day you show up and say, "I went
17 to AA but I don't have my signatures," she starts
18 saying, "Maybe she didn't go to AA," right?

19 **A. She could say that, yeah.**

20 Q. She saw one drug test, from what we see.

21 **A. No. There was more than that.**

22 Q. Okay. Well, from her notes that we just
23 went through, she saw one drug test.

24 **A. Yes.**

25 Q. And then she ultimately is saying, even

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1 support group meetings. (I forgot my proof slips at
2 home.) Also, she seemed uncomfortable talking about
3 her use, the consequences of same."

4 And then it says, "She missed two
5 appointments and was sent the letter to notify her was
6 leaving to let us know she wanted a different
7 provider. She did not respond."

8 So you missed two appointments. And then
9 when they're saying, "Hey, do you want to go with
10 somebody else," you ignored the letter.

11 **A. I did not ignore the letter. And the**
12 **reasoning I missed the appointments, my aunt was dying**
13 **of cancer.**

14 Q. Okay, understood. But, I mean, this was
15 important, as well. And they're saying you dropped
16 out of treatment and they sent that notice to you on
17 June 21, 2016, right?

18 **A. I didn't necessarily drop out of**
19 **treatment. Like I said, my aunt was dying.**

20 Q. Okay. Well, they considered it dropping
21 out of treatment. And then as it goes on, we look at
22 the discharge plan, and this is what you were getting
23 at.

24 "EAP contacted me to say the patient had
25 been pulled off work on reasonable cause (slurring

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1 in her words, she thinks that because -- and I
2 understand life happens and things happen, but
3 obviously from this counselor's view, she believes
4 that there's an indication that, due to your conduct,
5 the objective factor is you relapsed, right?

6 **A. If that's what she said. But we had**
7 **sessions with my husband, and she never brought up any**
8 **concerns about saying me -- that she felt that I**
9 **needed more treatment than she could provide for me.**
10 **That was never, ever said.**

11 Q. Okay. Well, I don't think she's saying
12 that you needed more than what she could provide. I
13 think she's saying that you weren't taking the
14 treatment that she wanted to provide to you.

15 **A. It was told to me by EAP that she**
16 **verbally stated that over the telephone.**

17 Q. Okay. Look, I'm just reading that. It's
18 certainly on those points. But I guess what I also
19 read there is that the EAP program said that they
20 would not make you go through the EAP program if you
21 were going to see a counselor and undergoing the drug
22 testing with a counselor.

23 **A. When they made me go do the**
24 **fitness-for-duty --**

25 Q. Yes. We'll get there.

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20 (Pages 77 to 80)

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1 **A. -- at Firelands, I explained to her that**
 2 **Ms. Williams was leaving and that I needed to find a**
 3 **new counselor. When her assessment was over, I asked**
 4 **her what her recommendations was.**
 5 **She said, "Continue what you're doing and**
 6 **here is a list of private counselors."**
 7 **Q. Who said this? Who are you saying said**
 8 **this to you?**
 9 **A. The lady at Firelands who did my**
 10 **evaluation.**
 11 **Q. Okay.**
 12 **A. So within two days, I had an appointment**
 13 **with a new counselor.**
 14 **Q. Okay. Here's what I'm saying, and you**
 15 **correct me if I'm wrong. Maybe you don't want the EAP**
 16 **program in this case to give us the answer, but it**
 17 **appears to me, based on the documents that we've gone**
 18 **through thus far, is that the EAP program at UH was**
 19 **advised of your rehab in January 2016 and they didn't**
 20 **formally put you into their program because you were**
 21 **doing private counseling, and that private counselor**
 22 **had you doing drug tests.**
 23 **Is that accurate or do you not know?**
 24 **A. This was all done voluntarily. I don't**
 25 **know -- I guess I don't understand why I was left**

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1 **counselor that I still have today, that I left**
 2 **Arrowhead early, which was false.**
 3 **Q. Uh-huh.**
 4 **A. I refused their treatment, which was**
 5 **false, because the doctor never ordered it.**
 6 **Q. Okay. So you do agree on those two**
 7 **facts, that EAP were advised of those, whether they**
 8 **were accurate or not?**
 9 **A. Not in January, no.**
 10 **MR. CAMPBELL: Frank, I got**
 11 **notice that the EAP file was being mailed**
 12 **to your offices yesterday, ordinary mail.**
 13 **So we'll all see the EAP file. Once you**
 14 **get it, send me a copy of that, as we**
 15 **discussed.**
 16 **MR. LANDRY: Yes.**
 17 **BY MR. CAMPBELL:**
 18 **Q. So I'm just asking whether you know that**
 19 **or not. And then three, from what I see from these**
 20 **documents, that your counselor was communicating with**
 21 **the EAP program to let them know that you were**
 22 **participating in the therapy.**
 23 **A. With her?**
 24 **Q. Yes.**
 25 **A. No.**

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1 **alone for six whole months and then, all of a sudden,**
 2 **being accused of slurred speech and knowing we hadn't**
 3 **had any meetings, or hadn't talked to anybody at HDP**
 4 **on the telephone.**
 5 **So I had no clue where this all started**
 6 **and why it started.**
 7 **Q. Okay. So let me just ask you if you're**
 8 **aware of this or not. Yes or no or you just don't**
 9 **have knowledge.**
 10 **It looks to me, from the records, that**
 11 **EAP was notified in January of 2016 of your rehab and**
 12 **your opioid addiction prior to going to rehab.**
 13 **Do you know that or not?**
 14 **A. No, I do not know that and I do not**
 15 **believe that they were.**
 16 **Q. Okay. And then number two, it looks to**
 17 **me as if UH EAP was advised that you were to undergo**
 18 **some additional counseling and that due to insurance**
 19 **or lack of group desire or whatever it is, that you**
 20 **had, at least, from what that initial Arrowhead,**
 21 **slash, Firelands had been telling them, that you had**
 22 **declined some follow-up treatments.**
 23 **Do you know if EAP was told that or not**
 24 **in January of 2016?**
 25 **A. EAP was telling -- I know of the**

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1 **Q. Okay.**
 2 **A. Because she left the practice before EAP**
 3 **got involved.**
 4 **Q. Okay. I'm just saying what it appears to**
 5 **me happened, and you're telling me what you knew.**
 6 **So from your understanding, you're of the**
 7 **view that UH EAP was not advised of your opioid**
 8 **addiction or rehab until July of 2016?**
 9 **A. EAP?**
 10 **Q. Yes.**
 11 **A. Yes.**
 12 **Q. Okay. Now, would it change your view of**
 13 **the case if you learned, once your counselor gets the**
 14 **file -- and I urge you to look at it, and I haven't**
 15 **seen it, so I'm just telling you what I see.**
 16 **Would it change your view of this case**
 17 **that if the EAP program at UH was advised in January**
 18 **of the fact that you had an opioid addiction, that you**
 19 **went into rehab, and that they believed, based on**
 20 **reports that we saw, that you had declined continuing**
 21 **treatment and checked yourself out early, would that**
 22 **change your view if EAP learned of all those facts in**
 23 **January of 2016?**
 24 **A. Those are false facts.**
 25 **Q. Okay. And then it appears to me that**

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21 (Pages 81 to 84)

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1 they, the reason your counselor had you doing the drug
 2 test, was: one, she wanted to give you proper
 3 treatment; but also because the EAP program required
 4 that.
 5 **A. I agreed to it to prove that I was**
 6 **serious about staying clean.**
 7 Q. Okay.
 8 **A. This is -- nobody forced me to see Ms.**
 9 **Williams. Nobody forced me to have to do -- go buy**
 10 **drug kits and do them. I did this on my own.**
 11 Q. Okay.
 12 **A. I was not forced by work, by anybody. I**
 13 **did this on my own. Because I thought maybe it would**
 14 **help to resolve some issues, personal issues.**
 15 MR. CAMPBELL: Okay. Let me
 16 show you the next document.
 17 (Court Reporter marked
 18 Defendants' Exhibit 7.)
 19 BY MR. CAMPBELL:
 20 Q. Before you read it all, let me just ask
 21 you -- take a look at it, and before you read word for
 22 word if you want to -- have you ever seen Exhibit 7?
 23 Once you read through it, let me know if you've ever
 24 seen Exhibit 7 before today.
 25 **A. The Salesforce was a new system on how to**

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1 your position on Salesforce and I'm sure you have
 2 explanations. But from their standpoint, it appeared
 3 that you were having difficulties that you normally
 4 would not have had.
 5 Is that a fair statement?
 6 **A. I had not been on Salesforce yet.**
 7 Q. Okay. I understand. But obviously
 8 there's different viewpoints. And when somebody hears
 9 "slurred speech," up to this point, I guess, up to the
 10 point of July 2016, had anybody at UH ever said to
 11 you, "Hey, your speech is slurred"?
 12 **A. No.**
 13 Q. Okay. And you're saying your speech was
 14 slurred not due to drug use but due to a medical
 15 problem?
 16 **A. Correct.**
 17 Q. Okay. So you're admitting your speech
 18 was slurred?
 19 **A. I do not know.**
 20 Q. Okay.
 21 **A. Because the medical issue is, when I had**
 22 **my right thyroid removed, the doctor injured my vocal**
 23 **cords.**
 24 Q. Okay. When was that? When was that
 25 thyroid removed?

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1 **do our, what was called call logs.**
 2 Q. Okay.
 3 **A. And my system was not cooperating.**
 4 Q. Okay. Let me just ask you: Had you seen
 5 this document before today?
 6 **A. This?**
 7 Q. Yes.
 8 **A. No.**
 9 Q. Okay. I know that you say that the
 10 slurred speech was one of the reasons why they sent
 11 you to EAP, right?
 12 **A. That was the only accusation Georgena**
 13 **Kohlbacher said that's why I was put on paid**
 14 **administrative leave.**
 15 Q. As part of the EAP.
 16 Did they tell you also that they believed
 17 that you had -- that you were having a difficult time
 18 how to understand and follow instructions?
 19 **A. No.**
 20 Q. Did they tell you that they believed you
 21 were having a difficult time in performing the tasks
 22 that were requested of you?
 23 **A. No.**
 24 Q. That e-mail, I'll represent to you, was
 25 one of the e-mails that go to them. And I understand

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1 **A. I cannot recall the actual year. It was**
 2 **while I was working for Health Design Plus.**
 3 Q. Okay. Was it ten years ago?
 4 **A. Probably longer, yes.**
 5 Q. Okay. So you had the medical condition
 6 for the last ten years plus of your employment at UH,
 7 right?
 8 **A. Yes.**
 9 Q. It didn't impact your ability to perform
 10 your work aside from, you say, on one occasion maybe
 11 or a couple of occasions in 2016, somebody thought
 12 that maybe you were on drugs because your speech was
 13 slurred.
 14 Is that what you're saying?
 15 **A. Correct.**
 16 Q. Okay. So did anybody even know you had
 17 this medical condition until they raised with you that
 18 your speech was slurred?
 19 **A. I did not know I had this medical**
 20 **condition until my thyroid became -- the left one**
 21 **became enlarged and I was choking on food and went to**
 22 **my thyroid doctor.**
 23 Q. Okay. But I thought you said that when
 24 you went to your thyroid doctor, like, a decade ago,
 25 they did something wrong that caused you to have

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22 (Pages 85 to 88)

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1 slurred speech at times?

2 **A. We did not discover that until my thyroid**
3 **doctor sent me in 2017, or '16, to the ENT doctor to**
4 **make sure there was not an obstruction. Because if**
5 **there was not an obstruction, then this would have to**
6 **be removed.**

7 Q. Okay. Okay.

8 **A. And then at that point is when it was**
9 **discovered that my vocal cords had been damaged.**

10 Q. Okay. So UH, up to this point, had no
11 idea about the vocal cord damage, right, up until July
12 2016?

13 **A. And I did not either.**

14 Q. Okay. They knew you had been in rehab,
15 right?

16 **A. EAP?**

17 Q. No. UH, your managers and supervisors,
18 knew you had been in rehab?

19 **A. Yes.**

20 Q. Knew you had abused, at some point,
21 Percocet, pain medications?

22 **A. Yes.**

23 Q. And then they believed they had heard a
24 slur in your speech on at least one occasion, right?

25 **A. If that's what they're saying.**

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1 occurred over the past decade.

2 When they send you for fitness for duty,
3 they're not having a -- I mean, if you came in to see
4 a doctor and the doctor looked at you, the doctor is
5 probably going to say, "I need to send her out for a
6 toxicology test" anyway, right?

7 Just like your counselor said the first
8 time you visited her, right?

9 **A. I guess -- well, it depends on what the**
10 **definition of "fit-for-duty evaluation" is versus**
11 **"chemical dependency."**

12 Q. Right.

13 **A. They could have said, "Your thyroid's**
14 **enlarged," which my family doctor knew.**

15 Q. Okay. Well, I guess I would say when we
16 see your discharge -- and I'm going back to Exhibit 6,
17 on that July 14th, I mean, the discharge plan says
18 there that "EAP contacted me to say the patient had
19 been pulled off work on reasonable cause (slurring
20 words, long delays in responding) so she most likely
21 has relapsed."

22 They believed it was due to drug use, and
23 so therefore they did it. So I guess I just have to
24 say to you they had a lot of facts at this point that
25 potentially it's there.

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1 Q. Okay. I guess your response isn't "I
2 never had slurred speech." Your response to them is
3 "It's not due to drug use. It's due to something
4 else," right?

5 **A. It is a medical condition that it changes**
6 **my voice.**

7 Q. Okay. At that point in time, though,
8 they don't know if it's drug use or a medical
9 condition, and they say, "Hey, we think we have cause
10 to have her go through the EAP program."

11 Is that a fair statement?

12 **A. If I was told I was being sent for a**
13 **chemical dependency evaluation and not for a**
14 **fit-for-duty evaluation.**

15 Q. Okay. So your concern was what they
16 called it, you're saying.

17 **A. Yes.**

18 Q. Okay.

19 **A. They're two different --**

20 Q. Okay. But I guess I would say if they
21 believed -- I look at it in this case -- I guess let
22 me ask you this.

23 It seems to me the two are one and the
24 same, when somebody believes that this isn't due to a
25 medical condition. This is due to drug use that had

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1 I mean, number one, you were paid during
2 the leave, right?

3 **A. Partially.**

4 Q. In 2016? I thought we saw in everything
5 on the complaint that this was a paid leave they put
6 you out on.

7 **A. Not fully.**

8 Q. "Not fully," meaning what?

9 **A. I was only paid full pay for, say, two**
10 **weeks.**

11 Q. Okay. And then short-term disability
12 after that.

13 **A. And then I also had to pay my health**
14 **insurance.**

15 Q. Okay.

16 **A. When I'm getting 60 percent of my pay.**

17 Q. Okay. And then at that point, you then
18 went into the EAP program. You returned to work at
19 the end of your leave and you went into the EAP
20 program with testing on a regular basis.

21 **A. Yes. I had no choice. Yes.**

22 Q. Okay. Okay. But you came back to work
23 and your work was fine, you said, right?

24 **A. Yes.**

25 Q. You had FMLA time. But aside from that,

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23 (Pages 89 to 92)

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1 your work was fine and you didn't have --
 2 **A. Are you talking January --**
 3 Q. I'm talking now in August or September
 4 2016 until the --
 5 **A. Yes.**
 6 Q. Okay. And you were in the EAP program
 7 undergoing testing throughout that time period, from
 8 September 2016 until your discharge.
 9 **A. It was sooner. Well, yeah. When I was**
 10 **forced to go to IOP, I had drug testing, also.**
 11 MR. CAMPBELL: Okay. Why don't
 12 we take a break.
 13 MR. LANDRY: All right.
 14 MR. CAMPBELL: I think it's a
 15 good time to take a break for our lunch.
 16 (A lunch recess was taken.)
 17 MR. CAMPBELL: I want to show
 18 you just a couple policies in place so we
 19 can have it.
 20 Frank we don't have a copy of
 21 this. Maybe after the deposition, we can
 22 get a copy.
 23 (Court Reporter marked
 24 Defendants' Exhibit 8.)
 25 BY MR. CAMPBELL:

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1 **A. I'm going to say, to my knowledge, I did**
 2 **not know, but Health Design had the same policy.**
 3 Q. Okay. That's fair. And, like I said, I
 4 just want to put a few of the policies in.
 5 **A. Yeah, I've never seen these.**
 6 **(Court Reporter marked**
 7 **Defendants' Exhibit 9.)**
 8 BY MR. CAMPBELL:
 9 Q. You've been handed now the
 10 substance-abuse policy.
 11 Did you understand that UH prohibited
 12 unauthorized or illegal drug use?
 13 **A. I have not seen this policy.**
 14 Q. Okay. Did you understand that drug abuse
 15 would be a violation of UH's policies?
 16 **A. Are you stating that we are not allowed**
 17 **to take medication --**
 18 Q. No.
 19 **A. -- while working?**
 20 Q. Well, certainly if it's a prescription
 21 and it doesn't impact your work, you're allowed to
 22 take it, right? If it's within the prescription and
 23 it doesn't affect your work, right?
 24 **A. Yes.**
 25 Q. But if you abused drugs or took illegal

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1 Q. I just want to show you what's marked as
 2 Exhibit 8. You're welcome to read through it, but I'm
 3 not even going to ask you any questions. I just want
 4 to see if you recognize that as UH's EAP policy.
 5 **A. I may have been given one of these. When**
 6 **HDP and UH -- we were not really advised of a lot of**
 7 **policies and procedures.**
 8 Q. Okay.
 9 **A. So --**
 10 Q. I assume that you were able to get access
 11 to any policies if you had questions, said, "Hey, I
 12 want to see the EAP policy" or nondiscrimination
 13 policy or something like that, you could see it?
 14 **A. I did question her on some policies. And**
 15 **she said she was going to check into it and never got**
 16 **back to me.**
 17 Q. Okay. Well, if you wanted to -- I guess
 18 let me ask you, did you know UH had an
 19 antidiscrimination policy, written policy, that
 20 prohibited all forms of discrimination? And that's
 21 not the policy, I'm just asking you whether you were
 22 aware of that.
 23 **A. Could you repeat that question?**
 24 Q. Did you know that UH's policy, their
 25 written policy, prohibited discrimination?

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1 drugs while at work, that wouldn't be appropriate,
 2 right?
 3 **A. But is there -- how do I say this? Know**
 4 **that I took them while I was working?**
 5 Q. I'm not asking you to say that you
 6 violated a policy.
 7 I'm just asking you: Were you aware that
 8 UH, probably just like any other employer, has
 9 policies that prohibits improper drug use? Let's put
 10 it that way.
 11 **A. No.**
 12 Q. For example, if you started to drink
 13 beers during the course of the workday, that would
 14 likely violate UH policy, right?
 15 **A. Yes.**
 16 Q. If you were taking heroin -- and I'm not
 17 saying you were -- that would violate UH policy,
 18 correct?
 19 **A. Correct.**
 20 Q. If you were abusing drugs, taking it far
 21 in excess of your prescription, that might violate UH
 22 policy, right?
 23 **A. Depending on how you were taking them at**
 24 **the time.**
 25 MR. CAMPBELL: That's fair.

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24 (Pages 93 to 96)

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1 That's fair. And, like I said, I'm not
 2 saying that you violated it. I'm just
 3 showing it to you.
 4 (Court Reporter marked
 5 Defendants' Exhibit 10.)
 6 BY MR. CAMPBELL:
 7 Q. I'm handing you what's been marked a
 8 "Fitness-For-Duty Examination."
 9 Have you seen that policy?
 10 A. No, sir.
 11 Q. You did go through at least one fitness
 12 for duty?
 13 A. Two.
 14 Q. Two, okay.
 15 A. And the second one, I went to at St.
 16 Rita's Hospital.
 17 Q. Okay.
 18 A. The lady that performed it stated she
 19 didn't know why I was here, that I did not need IOP.
 20 She actually walked me and the person that was with me
 21 next door and told the lady that they would not be
 22 treating me.
 23 Q. Okay. That's fine. I just simply asked
 24 you if you had gone through fitness-for-duty exams.
 25 A. No, I did not get this.

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1 to get into stuff. You got disciplinary actions based
 2 on the attendance policy and was advised of attendance
 3 issues on a number of occasions during your employment
 4 at UH, right?
 5 A. The time I did have was covered under
 6 FMLA.
 7 Q. Okay. I understand your argument. You
 8 got warnings that we'll go through. I think you got
 9 confirmations of counseling, a final written warning.
 10 You had a number of them.
 11 A. But I was under FMLA at that time.
 12 Q. Okay. Okay. I'm not asking you if you
 13 were on FMLA. You received those counselings, right,
 14 during your employment at UH? I'm not saying whether
 15 you agreed with them, but you received them.
 16 A. Yes.
 17 (Court Reporter marked
 18 Defendants' Exhibit 12.)
 19 BY MR. CAMPBELL:
 20 Q. I'm handing you what's been marked as 12.
 21 These are the EAP documents.
 22 The first document is what you signed
 23 confirming your two years in the EAP program?
 24 A. This is the one I questioned her as to
 25 why she wrote this and it was not written, typed out,

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1 Q. You didn't get the policy, but you went
 2 through fitness-for-duty exams.
 3 A. Well, I would have to say no. I had to
 4 go through chemical dependence evaluations.
 5 (Court Reporter marked
 6 Defendants' Exhibit 11.)
 7 BY MR. CAMPBELL:
 8 Q. I'm handing you the attendance policy.
 9 Were you aware of the attendance policy
 10 at UH?
 11 A. Not particularly. We were very confused
 12 as to how their stuff worked because it was not really
 13 explained. It was -- when we were told about the
 14 merge or sell, nothing was really explained to us.
 15 You know, we had four weeks' vacation.
 16 We were told we were keeping our benefits, four weeks'
 17 vacation, ten sick days, one personal day, all the
 18 holidays.
 19 Q. Uh-huh.
 20 A. So a lot of us did not even understand
 21 about PTO.
 22 Q. Okay.
 23 A. We thought, hey, we still had our four
 24 weeks, we had our ten days, we had our personal day.
 25 Q. Okay. Understood. Obviously we're going

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1 as a policy. You know, she handwrote --
 2 Q. Okay.
 3 A. -- "2 years."
 4 Q. Okay. Understood. But she had wrote it
 5 before you signed it.
 6 A. I questioned her about that.
 7 Q. Okay. That's fair.
 8 Page 2 goes through some of the other,
 9 what your requirements were in the EAP program.
 10 A. And I did so every -- I followed and
 11 she -- I asked Mr. McGrady [sic] if she'd ever called
 12 to see if I followed up on me going to my appointments
 13 and he said no.
 14 Q. Okay. And then Page 3 looks like this is
 15 that original referral form for the Tier 1 mandatory
 16 referral to the EAP.
 17 A. Yes. This is what I was referring to.
 18 Q. Okay. So I just wanted to show you that.
 19 That was the EAP program. Now, from that point on,
 20 you were back to work, but you had to participate in
 21 some requirements for the EAP program, right?
 22 A. Yes.
 23 Q. Okay. One of those were that you had
 24 random drug testing.
 25 A. Yes.

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25 (Pages 97 to 100)

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1 Q. Is it fair to say that you missed -- you
2 were absent on the number of the days you had random
3 testing?

4 A. Those days were either migraines, because
5 I got a phone call from Georgena one day, I could
6 barely lift my head off the pillow. And she said,
7 "You have to go test."

8 I told her, "If you want my urine, come
9 and get it. I'm not going to jeopardize my life and
10 somebody else's life."

11 I had to call in three days a week,
12 Monday, Wednesday, and Friday. This was probably,
13 say, a Monday.

14 Q. Uh-huh.

15 A. So I called in on a Wednesday and a
16 Friday. They had two other days that week to have me
17 go test and they waited until the following week.

18 Q. Okay. My only question to you was, you
19 missed -- on a number of days when they said this is
20 your day to test, you missed, I would say, five or ten
21 of those days.

22 A. Those were probably covered under the
23 FMLA.

24 Q. I'm not questioning whether they were
25 FMLA. But you were notified of a drug test and then

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1 the testing, but there were many days where they said,
2 "Hey, we'd like you to be tested" and you said it was
3 migraines or back or some issue that you had to miss.

4 A. But I still never failed none of their
5 tests.

6 Q. Okay. Let me ask you. Were you aware
7 that a number of the tests came back that, although
8 you were on the prescription, that your use was far
9 above the prescription use?

10 A. Yes. And the last test I got, the MRO
11 doctor called me. It was a different doctor. And he
12 was talking to me about that, and I said, "You are the
13 first one," because it was usually a female, "that has
14 ever called me and advised me of that."

15 And he said, "We are supposed to advise
16 you before we advise your employer." I talked to my
17 psychologist who prescribed the medication.

18 Q. What medication --

19 A. Xanax.

20 Q. -- were you being prescribed during the
21 course -- okay.

22 And you're saying that the Xanax -- how
23 did you -- I mean, from what I'm seeing -- and I'm
24 going to give you the records before -- from what I
25 saw, it wasn't just once. It was a number of times

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1 you would miss, whether you were FMLA, absence,
2 vacation, or whatnot.

3 A. Well, I can't go drug test somewhere if
4 I'm on vacation, sir.

5 Q. Well, you're saying that every one of
6 those tests they called you on, you were on vacation,
7 that you missed?

8 A. No.

9 Q. Okay.

10 A. But what I am saying was they still had
11 two other days to have me go test and waited till the
12 following week.

13 Q. Okay. Well, I guess I just have to say,
14 just show the process. Because you're saying the
15 process may not have been fair.

16 If you got a call that, "Hey, you have a
17 drug test today," you could just simply call in and
18 say, "I have a migraine and I'm going to be out on
19 FMLA today," right, and not go to your drug test?

20 I'm not saying you didn't have a
21 migraine, but you were allowed to miss it if you said
22 you had an FMLA reason or were sick or anything like
23 that, right?

24 A. Correct.

25 Q. Okay. I'm just saying, you had to go to

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1 that you were significantly higher.

2 A. He said that I could have -- I said a lot
3 of times I take my meds in the morning, that's how I
4 take them. And if I don't -- if I have to go test, I
5 cannot use the bathroom.

6 He was never concerned about these tests.
7 And this was my psychiatrist that prescribed the
8 medication, Dr. Rana.

9 Q. I guess I would say, did you have an
10 explanation for why you would be significantly higher
11 than your prescription level?

12 A. I asked him. I asked the MRO doctor the
13 same question, could it be because I took the
14 medication and I had to go test? And I could not
15 obviously use the restroom. So I couldn't -- so there
16 it sits.

17 Q. Okay. Do you think that maybe would
18 raise a red flag? I mean, I'm going to be honest with
19 you. If I was running the EAP program, I would
20 consider that a failure on the test. Because if
21 you're taking a prescription drug and taking it at
22 that high of a level and it's not just once, I
23 wouldn't consider that a pass.

24 If I were running the program, I would
25 consider that a fail and it would have resulted in

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26 (Pages 101 to 104)

Page 101

1 termination. Just so you know how I look at it, it
 2 would seem to me no different than if you took
 3 something outside. It's of the same seriousness.
 4 **A. My psychiatrist was not concerned about**
 5 **it. He was made aware of it numerous times.**
 6 **Q.** I thought you were only told once. You
 7 started this conversation by telling me that you
 8 weren't advised by the program of all this and that
 9 you finally got called.
 10 **A. Georgena would have called me.**
 11 **Q.** Okay.
 12 **A. So no.**
 13 **Q.** So you got notice.
 14 **A. Oh, yes.**
 15 **MR. CAMPBELL:** It's just you
 16 thought that maybe you should get --
 17 okay.
 18 (Court Reporter marked
 19 Defendants' Exhibit 13.)
 20 **BY MR. CAMPBELL:**
 21 **Q.** I've handed you just one of the examples
 22 here. On this one, if you can see, this was
 23 10/5/2016. The test was on September 28. Right after
 24 you got into it, there was a diluted sample.
 25 Are you aware of that?

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1 let's go through and see.
 2 (Court Reporter marked
 3 Defendants' Exhibit 14.)
 4 **BY MR. CAMPBELL:**
 5 **Q.** This is another example from a drug test
 6 April 19th, 2017.
 7 **A. Can I say something, please?**
 8 **Q.** Yes.
 9 **A. On this first one you gave me --**
 10 **Q.** Uh-huh.
 11 **A. -- when you do these tests, they check**
 12 **your pockets, you leave your purse, you leave**
 13 **everything outside.**
 14 **Q.** Okay.
 15 **A. So I didn't -- and they drop a blue thing**
 16 **in the toilet.**
 17 **Q.** Okay.
 18 **A. So I have no idea how a specimen could be**
 19 **diluted.**
 20 **Q.** Well, I'm sure, as well. I'm sure they
 21 try to do everything. But I will tell you and I'm
 22 sure your counsel will tell you I have lots and lots
 23 of cases where there's allegations or there's actual
 24 things of manipulation of these tests. I've seen it
 25 all, so I will tell you.

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1 **A. I do, but I was never made aware of that**
 2 **one. Never heard of this. Never saw this. Never was**
 3 **even told this.**
 4 **Q.** Well, when we're talking about how long,
 5 I'm just going to show you some of these just so you
 6 understand that as you go through this testing, this
 7 is what your employer was seeing.
 8 So in this case, number one, the M.D., it
 9 looks like Dr. Matuszak was saying, number one, that
 10 it was negative but the specimen was diluted.
 11 Says that at the beginning, right?
 12 **A. Right.**
 13 **Q.** And number two, although you were taking
 14 a prescription, that he was raising the fact that this
 15 could present safety-sensitive issues due to the type
 16 of prescription.
 17 Do you see that?
 18 **A. Yes. But it never --**
 19 **Q.** Well, I guess I would say, on some of
 20 these days, we're going to see you were taking it --
 21 not only taking it, but you were taking it above the
 22 prescription.
 23 Even at the prescription level, he's
 24 saying that it's a safety-sensitive issue. And it
 25 would seem to me there would be some issues. But

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1 **A. Well, I was never made aware of this.**
 2 **Q.** Okay. Well, I've seen people who can't
 3 breathe strong enough to get a breathalyzer going,
 4 people who can't urinate despite drinking water for
 5 hours, people who all of a sudden can urinate. So
 6 there's everything under the sun that I've seen.
 7 So I guess I would say that. So let's
 8 look at the next one, on April 19th, 2017. And,
 9 again, this looks like it's again a prescription
 10 still. I take it you're still taking Xanax at that
 11 time.
 12 **A. Yes.**
 13 **Q.** And they're raising at that point, again,
 14 that it could present safety-sensitive issues to your
 15 job, right?
 16 **A. Correct. But it never has.**
 17 (Court Reporter marked
 18 Defendants' Exhibits 15 and 16.)
 19 **BY MR. CAMPBELL:**
 20 **Q.** Okay. And it looks like again they're
 21 being advised in August of 2017 again of this same
 22 prescription.
 23 I take it at this time, it again is the
 24 Xanax?
 25 **A. Yes.**

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27 (Pages 105 to 108)

<p style="text-align: right;">Page 105</p> <p>1 Q. Now, did you advise -- who prescribed the</p> <p>2 Xanax at some point? Because --</p> <p>3 A. Dr. Rana. Well, originally, it was my --</p> <p>4 it was a doctor filling in for my C&P because of due</p> <p>5 to everything that started in July of 2016, I was an</p> <p>6 emotional wreck.</p> <p>7 Q. Okay.</p> <p>8 A. So he put me on all this medication. And</p> <p>9 then my nurse practitioner had me go have a</p> <p>10 psychiatrist, which is Dr. Rana, manage my medication.</p> <p>11 Q. Okay. Let me ask you this way. When you</p> <p>12 went into rehab in January of 2016 -- remember that</p> <p>13 testimony of that event?</p> <p>14 A. Yes.</p> <p>15 Q. Your intake documents showed you were</p> <p>16 taking Xanax but you didn't have a prescription then,</p> <p>17 right?</p> <p>18 A. Correct.</p> <p>19 Q. So I have to say, if it was your</p> <p>20 physician who prescribed it to you post-rehab, was he</p> <p>21 or she aware that you were taking it without a</p> <p>22 prescription prior to your rehab?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And that did not raise any concern</p> <p>25 for that physician?</p>	<p style="text-align: right;">Page 107</p> <p>1 A. Because I had a 13-hour migraine.</p> <p>2 Q. Okay.</p> <p>3 A. And instead of going out to Blanchard</p> <p>4 Valley Hospital due to the last incident when I had a</p> <p>5 migraine and took my migraine meds, you know, the max</p> <p>6 you can take, they told me I had an aneurysm and put</p> <p>7 me in a Life Flight helicopter, and I did not have</p> <p>8 one.</p> <p>9 Q. Okay. Well, let's look at this --</p> <p>10 A. So I had my husband get one Percocet from</p> <p>11 his sister and try that instead of going to the</p> <p>12 emergency room and ending up in another helicopter.</p> <p>13 Q. Okay. Let's see what this says. So this</p> <p>14 is right at the beginning of this EAP, right? This is</p> <p>15 when you were telling me how wrong it was that they</p> <p>16 would send you out to EAP, right?</p> <p>17 A. Excuse me?</p> <p>18 Q. This is in July of 2016 and this is when</p> <p>19 you were telling me how wrong it was for them to send</p> <p>20 you to the EAP program, right, to put you on that paid</p> <p>21 leave?</p> <p>22 A. This is the date when everything started</p> <p>23 and I didn't know what was going on.</p> <p>24 Q. Okay.</p> <p>25 A. And I actually vomited all over their</p>
<p style="text-align: right;">Page 106</p> <p>1 A. No.</p> <p>2 Q. Okay. Because I will say when I look at</p> <p>3 these documents and consider the fact that that was a</p> <p>4 prescrip -- I mean, you realize that taking a</p> <p>5 prescription without a prescription from a physician,</p> <p>6 that's a crime, right?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. I mean, that was a serious issue</p> <p>9 to be taking Xanax without it. That's no different</p> <p>10 than if you were going to buy an illegal drug off the</p> <p>11 street, right? Right?</p> <p>12 A. I'm not sure of the laws.</p> <p>13 Q. Okay. It just raised my eyebrow, I</p> <p>14 guess. Again, if I was the EAP program, had I seen</p> <p>15 all those documents, I would have raised a concern</p> <p>16 about that. Okay. And this is a positive drug</p> <p>17 screen.</p> <p>18 Were you ever told about this?</p> <p>19 A. Yes. I told the truth about this to her</p> <p>20 and to the MRO -- or, excuse me, the first person I</p> <p>21 had the chemical dependency evaluation with.</p> <p>22 Q. Okay. So I guess I would say this one</p> <p>23 was positive as to Oxycontin, right?</p> <p>24 A. Yes. And I stated why.</p> <p>25 Q. Okay. And why?</p>	<p style="text-align: right;">Page 108</p> <p>1 place because I was so upset.</p> <p>2 Q. Okay. This is what you've been telling</p> <p>3 me about the fitness-for-duty drug screen, right?</p> <p>4 A. Correct.</p> <p>5 Q. So this is when your counselors were</p> <p>6 saying she might have relapsed. This is when your</p> <p>7 supervisors were saying she doesn't seem to be</p> <p>8 following tasks and her voice is slurred. So let's</p> <p>9 see what this Well At Work says at this time.</p> <p>10 So the first paragraph says that this</p> <p>11 drug screen took place on July 12th, 2016, right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And then as we go through this, it</p> <p>14 says -- this is from Well At Work -- "She appeared</p> <p>15 obviously sedated, slurring her words, sleepy, atoxic,</p> <p>16 bending forward, leaning on the walls to support</p> <p>17 herself walking, and vomited in the office while</p> <p>18 speaking to the receptionist."</p> <p>19 Did I read that right?</p> <p>20 A. Yes.</p> <p>21 Q. And you admit to all of that or some of</p> <p>22 that?</p> <p>23 A. Some of that.</p> <p>24 Q. Okay. I mean, obviously that's</p> <p>25 consistent with what UH was saying as to why you're</p>

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28 (Pages 109 to 112)

Page 109

1 going on the EAP program, right?

2 **A. Not necessarily. I was so upset. You're**

3 **left alone for six months. You're doing everything,**

4 **you know, you're supposed to be doing and living life.**

5 **And then all of a sudden, you're slammed**

6 **with accusations of this and all of this stuff I**

7 **didn't even understand and couldn't figure out why it**

8 **was happening and nobody would tell me anything.**

9 Q. Okay. Let's continue on here. It does

10 say about this 13-hour migraine and that you took two

11 Limitrex [sic] tablets.

12 **A. Imitrex.**

13 Q. Okay. And then as it goes on, it was

14 after you were notified, then you claim that you got a

15 pill bottle where there were some old medications for

16 traveling, including a few old left over. It looks

17 like those were the pills --

18 **A. Xanax, yes.**

19 Q. -- that had the -- well, at that point,

20 it says the alprazolam tablets.

21 **A. That's, yeah, the same thing.**

22 Q. Okay. You're saying that's Xanax?

23 **A. Xanax. Alprazolam is a generic name for**

24 **Xanax.**

25 Q. Okay. And then they found there was the

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1 you're admitting that even then you were taking drugs

2 that were not within your prescription, right? Right?

3 **A. Yes. But I explained why and told the**

4 **truth.**

5 Q. Okay. Well, I guess what I'm saying is

6 nobody could tell whether you were telling the truth

7 or not, right? I mean, the only person who knows the

8 truth at that point would be yourself, right?

9 **A. And that's why I told the truth.**

10 Q. Well, I guess I'm saying that was an

11 unverifiable fact. It could have been that you were

12 taking your -- continuing to abuse the prescription,

13 or lack of a prescription, and you were upset that

14 they were going to catch you when you were in there,

15 right?

16 **A. No.**

17 Q. No?

18 **A. No. I knew I was going to test and I**

19 **told them the truth.**

20 Q. Okay. And did you learn after the fact,

21 though, that, "Hey, if I'm going to test and I might

22 fail that test, I'm going to say I have a migraine or

23 I need FMLA or on vacation"?

24 Did you learn after this test?

25 **A. Yes.**

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1 presence of several prescriptions, weaning doses in

2 quantity over several months.

3 So I guess at this point, they're saying

4 that even what you reported is different than what

5 you're telling me now. At that time, you were

6 reporting something different than what you're telling

7 me now.

8 **A. I don't know what you're saying.**

9 Q. You told me initially that you just took

10 a tablet for a 13-hour migraine. This one is going

11 into that you had an old travel --

12 **A. Yes. I admitted to them that I took a**

13 **Xanax and also I admitted to them that I got a**

14 **Percocet from my sister-in-law, which is the**

15 **oxycodone.**

16 Q. Okay. Then it says that, at a later

17 appointment on October 25th, that you weren't slurring

18 your words.

19 **A. There's a medical reason for this. It's**

20 **called laryngeal nerve palsy.**

21 Q. And it just happens every now and then?

22 **A. Yes.**

23 Q. It just appears to be a drug test. So in

24 this case, you have a positive drug test and they're

25 reporting that you are slurring your speech and that

Page 112

1 Q. Okay. So after this -- I mean, I just

2 want to be fair.

3 Are you telling me that after this, if

4 you were going to fail the test, you learned that,

5 "Hey, I won't go and do the test"?

6 **A. No.**

7 Q. Because I will tell you, it looks to me

8 as if that's what you learned from all this,

9 unfortunately --

10 **A. No.**

11 Q. -- that you learned that, hey --

12 **A. No, that is not what I said.**

13 Q. Okay.

14 **A. That is not what I said.**

15 Q. Okay. You never missed a test to avoid a

16 positive?

17 **A. No. Like I said, they had two other days**

18 **during that week to have me go test.**

19 Q. Okay.

20 **A. And they waited until the following week.**

21 MR. CAMPBELL: Okay. Let me

22 show you one more document.

23 (Court Reporter marked

24 Defendants' Exhibit 17.)

25 BY MR. CAMPBELL:

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29 (Pages 113 to 116)

Page 113

1 Q. This one's from 2017, and I want to take
 2 you to Page 2. This is on a prescription. I'll take
 3 you to Page 2. It's saying you have a prescription.
 4 If you look at Page 2 at the bottom, you see that "Use
 5 of drug is above therapeutic levels. Should be
 6 reference to SAP."
 7 Do you see that?
 8 **A. What is SAP?**
 9 Q. I'm assuming that is some additional, we
 10 need to check with your physician or some physician to
 11 see if this is above levels of whether it's
 12 appropriate that you're using this.
 13 **A. I've got the copies of these and let my**
 14 **provider see them. I advised him multiple times, and**
 15 **he was not concerned.**
 16 Q. Okay. So you were told prior to this,
 17 even, that you had levels above therapeutic levels
 18 during the course of the testing, right?
 19 **A. Correct.**
 20 Q. And all I'm raising with you is that when
 21 I see you get in in 2016, first of all, you have, from
 22 what UH was aware, you had abused, in your own words,
 23 abused the pain medication, correct? You had told
 24 them in January 2016, right?
 25 **A. That I was going to go get help off the**

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1 when they're above therapeutic levels, you missed
 2 many, many appointments.
 3 **A. How many?**
 4 Q. I went through the admissions and we had
 5 it. It was not one day. It was three and four weeks
 6 in a row where you missed.
 7 **A. Do you want to understand why?**
 8 Q. Absolutely.
 9 **A. Probably at that time I was having**
 10 **injections in my back. So I had them in my neck and**
 11 **my lower back.**
 12 Q. Okay.
 13 **A. Those are each different times. Then I**
 14 **had the nerves burnt. So there are eight different**
 15 **times. And like I said, once again, they had two**
 16 **other days during that week to drug test me.**
 17 Q. Okay. Well, I will say this: Had you
 18 submitted your paperwork, if it was truly for those
 19 reasons, those days would have already been off for
 20 FMLA and they wouldn't have been calling you to drug
 21 test on those days. They would have known you were
 22 out.
 23 **A. I called every day, Mondays, Wednesdays,**
 24 **and Fridays, and I let Carrie -- she was the first**
 25 **person who worked there -- know.**

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1 **Percocets.**
 2 Q. Right. That you couldn't get off it
 3 yourself, you needed help, right?
 4 **A. Well, after that many years.**
 5 Q. Okay. They knew that you went into
 6 rehab, right?
 7 **A. Yes.**
 8 Q. Okay. Then after this, when they say,
 9 "Hey, we think we have some potential issues here such
 10 as slurring of speech and not following directions,"
 11 your first drug test comes back positive and that
 12 tester concludes the same thing, slurring of speech
 13 and that you appeared to be intoxicated that day.
 14 We looked through that, right?
 15 **A. It says that. But slurring of speech has**
 16 **been totally medically cleared with a diagnosis.**
 17 Q. Okay. In your view. And then after
 18 that, as you test, we look at the testing. You have
 19 above therapeutic levels and diluted exams and you
 20 miss exams.
 21 **A. That says once, which I was never made**
 22 **aware of nor even did Georgena make me aware of that.**
 23 **Now, you're saying me missing testing are**
 24 **legitimate.**
 25 Q. Okay. Well, in 2017 around this time

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1 Q. Let me say this. The EAP program, UH,
 2 and counsel for UH, we all hope that you are fully
 3 compliant and that you are not abusing any drugs.
 4 But all I was getting at is that when I
 5 look at the objective facts, when I look at why you
 6 went into it and why you stayed into it and the
 7 issues, you have to admit that the objective facts,
 8 when you look at dilution, failures, above therapeutic
 9 use, and admitted drug abuse over ten years, those all
 10 look to me that the EAP program was appropriate for
 11 you, correct?
 12 **A. Not totally correct, no.**
 13 Q. What is not totally correct about it?
 14 **A. I helped myself. You're making me look**
 15 **like I'm a black-labeled, say, heroin addict off of**
 16 **the street. I did this for myself and for my family.**
 17 Q. That's great. I'm not saying --
 18 **A. And I have stayed almost three years.**
 19 Q. Great. What I'm saying is not that
 20 you're abusing. Just simply the fact, the objective
 21 facts, if you're UH looking at it, you had an
 22 important job, right?
 23 **A. Yes.**
 24 Q. Those benefits being approved or denied
 25 were very important to each of those people, just as

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30 (Pages 117 to 120)

Page 117

1 you said your insurance when you went into rehab, it
 2 was just as important to you as it is to them, right?
 3 **A. Yes.**
 4 **Q.** If you inappropriately denied something,
 5 that could change someone's life, right?
 6 **A. Yes.**
 7 **Q.** Okay. So that was an important job and
 8 they had every right to say, "Look, we want to make
 9 sure you're doing your job right and that you're not
 10 under an improper level of drugs," or something like
 11 that, right?
 12 **A. I assume so.**
 13 **Q.** Okay. In fact, when we look at it, they
 14 could have very easily said to you, "Look, we question
 15 whether working at home under drugs that we're being
 16 advised by Well At Work could be safety-sensitive
 17 drugs and they're above therapeutic use."
 18 Again, if I'm UH, I'm going to look at
 19 that and say, "Is this appropriate for the
 20 individuals, our customers, people who are depending
 21 on it, is it appropriate and should we let our
 22 employee who may be driving to that drug test?"
 23 I mean, quite frankly, you had to drive
 24 to those tests, right?
 25 **A. Yes.**

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1 **Q.** That raises concern to me that we were
 2 continuing to let it go on and do it. Again, I'm
 3 hopeful that everything you said, that you are off for
 4 three years and that everything is great, I'm hopeful
 5 as to the drug stuff.
 6 But all I'm saying is that when I look at
 7 the records, I think you would agree that an
 8 objectively reasonable person would say, "I see why
 9 she went in the EAP program. I see why it was two
 10 years, because there were issues that arose," right?
 11 **A. Okay. Why, then, did Georgena, who had**
 12 **signed release forms, not contact the provider who was**
 13 **prescribing me the Xanax, question him on these levels**
 14 **herself?**
 15 **Q.** Because they let you work. Because it
 16 was a negative test, they didn't take you off the job.
 17 Had they taken you off the job, that's what they would
 18 have been asking. But they let you work.
 19 **A. So why are we raising such about this if**
 20 **she didn't go into this?**
 21 **Q.** Ma'am, you have a lawsuit against UH.
 22 I'm here today because you've sued UH saying that that
 23 EAP program was somehow inappropriate.
 24 I'm saying to you, when I look at this, I
 25 think everybody should be grateful that you were, one,

Page 119

1 permitted to continue to work during that time. If I
 2 were the decision-maker, I'm telling you I would have
 3 handled it differently.
 4 Number two, I think it's absolutely
 5 appropriate, everything they did from the records that
 6 we went through. But we're here today not because she
 7 didn't call your doctor. We're here because you've
 8 sued saying that somehow that EAP program is
 9 inappropriate.
 10 And I'm asking you how in the world this
 11 EAP program, you undergoing the testing each week, and
 12 you being sent to that EAP program, under these facts
 13 that we just went through, how in the world is that
 14 EAP program at all inappropriate?
 15 **A. Because she told -- falsified information**
 16 **and got me put into an IOP program that my counselor**
 17 **told her I did not need.**
 18 **Q.** What is the IOP program?
 19 **A. Okay. Do you not understand?**
 20 **Q.** No, no. Tell me what this is so I
 21 understand.
 22 **A. Depending on how many people show up for**
 23 **the day, okay? You're all split into two rooms.**
 24 **You're going to sit there and say this is my problem**
 25 **for the day. I want to jump off the roof.**

Page 120

1 **Q.** This is something in addition to the
 2 testing?
 3 **A. No. This was IOP.**
 4 **Q.** Okay. When did it occur?
 5 **A. I had to go three times a week, five**
 6 **weeks.**
 7 **Q.** Okay. When? In 2016?
 8 **A. Yes. That I was forced to go do or I**
 9 **would have been fired.**
 10 **Q.** Okay.
 11 **A. And everybody goes around the room and**
 12 **gives them advice or we'd go color or we'd have a**
 13 **talent thing.**
 14 **Q.** Okay. Is there anything other than you
 15 not liking the IOP program for these five weeks that
 16 you think was done inappropriately to you with respect
 17 to this EAP?
 18 **A. Yes.**
 19 **Q.** What?
 20 **A. Her telling that I left Arrowhead early,**
 21 **I refused their IOP and EAP programs.**
 22 **Q.** Okay. Anything else?
 23 **A. And the violation of my HIPAA practices.**
 24 **Q.** Okay. So we just went through all these
 25 things, and I'm going to abbreviate.

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31 (Pages 121 to 124)

Page 121

1 Number one, you told them yourself you
2 were going into rehab, right?
3 **A. But --**
4 Q. No. Answer "yes" or "no." Did you tell
5 UH yourself you were going into rehab, "yes" or "no"?
6 **A. Yes.**
7 Q. You told UH yourself that you needed
8 rehab because you couldn't get off the prescription
9 pain pills, right?
10 **A. I didn't know how to do it myself.**
11 Q. Okay. So at that point, they do a whole
12 lot and they knew that you were going in and you ask
13 for short-term disability benefits?
14 **A. Because, to me, rehab is a long-term,**
15 **say, 30-day program.**
16 Q. Uh-huh.
17 **A. So I went ahead and initiated it. They**
18 **called HR and was telling them all my medical**
19 **information. Now, yes, I told them I was going.**
20 **But they could have been giving them**
21 **information on this is what she's taking now, this is**
22 **what she's doing, acting, anything, that they did not**
23 **need to know. And HR did not stop her and say,**
24 **"Excuse me, you are talking to her employer, not her**
25 **disability company."**

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1 Q. Okay. Well, I've got news for you. When
2 you're employed and you need time off from work, they
3 have the ability to ask why you're off of work.
4 **A. That's right.**
5 Q. So I don't know what country you live in,
6 but that's the country we're in.
7 **A. They do not have the right to know all my**
8 **medical information.**
9 Q. Ma'am, they didn't discharge you. They
10 gave you a leave. They kept you employed despite,
11 quite frankly, you had worked for them -- put yourself
12 in their shoes.
13 You'd worked the prior year after you had
14 admitted you had abused drugs for the prior year. You
15 couldn't get off of pain pills. You were on pain
16 pills every day processing those claims. Think how
17 many of those people who had claims denied.
18 **A. Have you seen my medical -- or my yearly**
19 **reviews?**
20 MR. CAMPBELL: I'm going to be
21 honest with you. You should have been
22 grateful for this situation, period. Let
23 me show you the next exhibit.
24 (Court Reporter marked
25 Defendants' Exhibit 18.)

Page 123

1 BY MR. CAMPBELL:
2 Q. Did you receive this corrective action?
3 **A. Yes. And some of these were supposed to**
4 **have been re-adjusted.**
5 Q. Okay. Well, from what I understand on
6 this corrective action is that, at this time, your
7 absences as we see here, there are a lot of hours
8 missed. And your absences, there were even more.
9 And had they given you the points as they
10 should have, you would have been progressed further
11 along. But they decided to put you at this level
12 rather than the higher level because you were not
13 given advance notice.
14 **A. Some of these were supposed to have been**
15 **removed off of here. And unfortunately, as you know,**
16 **I do not have access to my e-mails.**
17 Q. Okay. Well, you received this and you
18 understood at this point in time --
19 **A. Until I dug into it.**
20 Q. Well, did you take this corrective action
21 and say, "Hey, I need to improve my attendance," or
22 did you take this and say, "I disagree with everything
23 and I'm going to continue doing what I'm doing"?
24 **A. I didn't continue to call off just to**
25 **call off work, sir.**

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1 Q. Well, I guess I would say, did you take
2 it seriously when you received it?
3 **A. Yes.**
4 Q. Okay. Good. That's what I was asking,
5 whether you considered it, like, "Hey, I'm going to
6 comply" or whether you're not.
7 **A. But some of these are FMLA.**
8 Q. Ma'am, you used FMLA throughout your
9 employment, right? You had two major surgeries, I
10 think you said ten years before your eventual
11 discharge, right?
12 **A. Yes.**
13 Q. And so my guess is that you had used FMLA
14 over those ten years and probably the 15 years since
15 FMLA was created.
16 You used it throughout your employment
17 with UH, right?
18 **A. Because I was told that I had to have**
19 **FMLA papers filled out, yes.**
20 Q. Okay. You knew the process. One of the
21 processes is that when you miss work for FMLA, you
22 give notice that day. Okay?
23 A lot of the times when you talk about
24 they needed to go back and look is because when we
25 look at -- if we really want to dig into these things,

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32 (Pages 125 to 128)

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<p>1 you would miss work and then, two weeks later, you</p> <p>2 would say it was due to a migraine or something like</p> <p>3 that. You knew the process.</p> <p>4 A. And they were told the process. They</p> <p>5 knew well in advance of when I was having a procedure</p> <p>6 done.</p> <p>7 Q. Okay. Well, that's far different than</p> <p>8 the day that you wake up and say, "I have a migraine."</p> <p>9 I'm not saying you didn't have a migraine, but you</p> <p>10 should have called in and said this is an FMLA</p> <p>11 absence.</p> <p>12 A. They knew I was covered under FMLA for</p> <p>13 migraines.</p> <p>14 Q. They can't guess why you're off.</p> <p>15 A. I told them why I was off, sir.</p> <p>16 (Court Reporter marked</p> <p>17 Defendants' Exhibit 19.)</p> <p>18 BY MR. CAMPBELL:</p> <p>19 Q. This one, I'm showing you because it</p> <p>20 looks like the last return to work prior to your</p> <p>21 discharge.</p> <p>22 A. And once again, this is FMLA.</p> <p>23 Q. Okay. I'm not addressing that. I'm just</p> <p>24 saying when you returned to work, you didn't have any</p> <p>25 restrictions at this time.</p>	<p>1 back that question, please?</p> <p>2 (Court Reporter read back the</p> <p>3 previous question.)</p> <p>4 (A brief recess was taken.)</p> <p>5 THE WITNESS: Can you repeat the</p> <p>6 question?</p> <p>7 (Court Reporter read back the</p> <p>8 previous question.)</p> <p>9 THE WITNESS: Well, once they,</p> <p>10 with my back, the migraines, they used</p> <p>11 that I got myself help. That was used</p> <p>12 against me.</p> <p>13 Not only once, but twice did I</p> <p>14 have to go through a chemical dependency</p> <p>15 evaluation again in October and was told</p> <p>16 I do not have a chemical-dependency</p> <p>17 problem. It is mental health,</p> <p>18 depression, anxiety, and PTSD by my</p> <p>19 counselor, Mike McGrady.</p> <p>20 BY MR. CAMPBELL:</p> <p>21 Q. Okay. Anything else?</p> <p>22 A. I don't believe so.</p> <p>23 Q. Okay. Just to follow up briefly with it,</p> <p>24 the back issues we talked about, you had that for at</p> <p>25 least a decade. I'm not minimizing them, but you had</p>
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<p>1 So as we talked about at the beginning, I</p> <p>2 just wanted to confirm that it's not as if you had</p> <p>3 work restrictions during your employment at UH.</p> <p>4 You just had FMLA absences, right?</p> <p>5 A. In prior years, I had work restrictions.</p> <p>6 Q. Well, your last two years of employment,</p> <p>7 you didn't have any work restrictions.</p> <p>8 A. Because I wasn't having a big issue with</p> <p>9 my back, sir.</p> <p>10 Q. Okay. Ma'am, you're alleging disability</p> <p>11 discrimination in this case as somehow UH treated you</p> <p>12 differently of did something as to your disability.</p> <p>13 So I have to ask you, what is the</p> <p>14 disability that you're alleging UH somehow treated you</p> <p>15 differently based upon?</p> <p>16 Do you need to speak with your counsel?</p> <p>17 I want to have your answer, so if you need to take a</p> <p>18 break to speak with your counsel, I'm fine with giving</p> <p>19 you guys the opportunity to do that.</p> <p>20 A. Yes.</p> <p>21 MR. CAMPBELL: All right. We'll</p> <p>22 take a break. We'll let the record</p> <p>23 reflect that we have the question posed,</p> <p>24 and when we come back, she can answer it.</p> <p>25 MR. LANDRY: Can you read me</p>	<p>1 them for a decade over your last ten years of</p> <p>2 employment, right?</p> <p>3 A. Longer than that.</p> <p>4 Q. Okay. And you had no work restrictions</p> <p>5 over your last two years, aside from you said every</p> <p>6 now and then, you might need to lay down for your</p> <p>7 back.</p> <p>8 A. I've had injections.</p> <p>9 Q. Okay.</p> <p>10 A. Nerves burnt.</p> <p>11 Q. Okay. Didn't have restrictions when you</p> <p>12 were working over your last two years?</p> <p>13 A. No.</p> <p>14 Q. Okay.</p> <p>15 A. I do not believe so.</p> <p>16 Q. Okay.</p> <p>17 A. Unless I see the FMLA papers.</p> <p>18 Q. Okay. And then as to the migraines, you</p> <p>19 had migraines for a number of years during your</p> <p>20 employment?</p> <p>21 A. Yes.</p> <p>22 Q. You had FMLA paperwork and you took those</p> <p>23 days off for your migraines, right?</p> <p>24 A. Sir, if you can't hold your head up or</p> <p>25 look at a computer, you have to go in a dark room.</p>

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33 (Pages 129 to 132)

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1 Q. I agree with you. You asked for and were
2 approved for FMLA because of your migraines, right?
3 A. Yes.
4 Q. And then on the chemical dependency, they
5 found out you were using the pain medication, couldn't
6 get off them. They let you go to rehab. They didn't
7 discharge you, right?
8 A. **It's not that I couldn't get off of them.**
9 **I just didn't know how to properly do it without**
10 **harming myself.**
11 Q. When you told them that in January of
12 2016, they did not discharge you at that time, right?
13 A. No.
14 Q. They didn't even put you in the EAP
15 program for six months thereafter, right?
16 A. **Correct.**
17 Q. Okay. And when they did, you tested
18 positive when you first went in, right?
19 A. **Yes. And I told them why.**
20 Q. Well, I guess I would say, if somebody
21 has -- I guess my question to you, and I have to ask
22 my own client this, but if I thought an employee, if I
23 was here and Don was acting erratically, and I thought
24 Don was acting erratically because he was on drugs and
25 I said, "Don, I'm going to make you go do a drug

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1 had fallen off the wagon, right?
2 A. **No.**
3 Q. Okay. Well, I guess, let me just put
4 yourself in -- I have children, as well. Let's say
5 that it was, like, my son. And my son told me, "Hey,
6 I've stopped using," and then six months later, he
7 does a drug test and it becomes positive.
8 I would think, as a parent, that you
9 might be concerned, right? Would that be the case, if
10 you were a parent and your son went through that?
11 A. **I guess it depends on the situation and**
12 **how my child was acting.**
13 Q. Okay.
14 A. **I can't answer for my children.**
15 Q. It appears to me objectively that you
16 have very good boys who are serving their country and
17 doing everything right and all that. But some people
18 have the children who may not be doing everything
19 right and may be a little off track.
20 And if you had a child doing that and
21 they reported to you they were on drugs and six months
22 later they test positive, that child may say to you,
23 that 18-year-old college kid may say, "Hey, I had a
24 migraine for 13 hours."
25 You might say, "I question why you would

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1 test," and Don and I drove home and he took a drug
2 test and it came back positive for improper drug use,
3 that would seem to me, that's discharge. That's not,
4 "Hey, we're going to go two years in a program."
5 That's you're under drug use at work doing your job
6 and you didn't come in and voluntarily say you did it.
7 So you agree that, from my objective
8 view, when I see Day 1, they say here's the reasonable
9 cause, and then Day 2, here's the positive test, I
10 mean, everything they reported that would cause the
11 EAP seemed to be confirmed by the positive test,
12 right?
13 A. **They knew the whole time that I was on**
14 **pain medications.**
15 Q. Okay.
16 A. **It was not held a secret.**
17 Q. Okay. But after January, you reported
18 that you were no longer on pain medications and you
19 weren't taking them, right?
20 A. **Correct.**
21 Q. Okay. But you tested positive.
22 A. **Once. And I asked my counselor, does**
23 **that mean that I, say, fell off the wagon? No.**
24 Q. Okay. Well, I guess I would say this.
25 It certainly could mean that you were using it and you

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1 take that," right? You would still want to follow up
2 and ask questions about that, right? You're not going
3 to necessarily just accept everything they say as
4 true, right?
5 A. **I guess it depends on what I feel about**
6 **my child.**
7 MR. CAMPBELL: Okay. That's a
8 fair statement. Let's leave it at that.
9 (Court Reporter marked
10 Defendants' Exhibit 20.)
11 BY MR. CAMPBELL:
12 Q. Let me show you another exhibit.
13 Have you seen this document before today?
14 A. **Let me read it, please.**
15 **They were requiring us to, if we missed**
16 **one day, get FMLA papers filled out.**
17 Q. Okay.
18 A. **Now, my family doctor does them herself.**
19 **She does not have her staff do them. She was on**
20 **vacation. So it bypassed the time frame that they**
21 **wanted, one day of FMLA paper filled out. So that is**
22 **why it was denied.**
23 Q. Okay. So you got this final warning,
24 though.
25 A. **But I did not see this final warning,**

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34 (Pages 133 to 136)

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1 **because I didn't sign it.**

2 Q. You didn't sign it. Well, are you saying
3 they didn't talk to you about the final warning?

4 **A. Not this one, sir.**

5 Q. Not this one, okay. And this one, again,
6 this is one of those where you failed to report to
7 your scheduled EAP test, right?

8 **A. Unless I can see the dates, I can't tell**
9 **you if I was supposed to have went on that date.**

10 Q. Okay. So you disagree with that?

11 **A. But like I've said multiple times, they**
12 **had three days a week to test me.**

13 Q. Okay. I understand. But when they say
14 we're testing you on this day, you realize that some
15 people may not go to that test because it will come
16 out of their system for the later test, correct?

17 **A. In two days?**

18 Q. Well, I don't know what you're taking.
19 They don't know what you're taking.

20 It could be a variety of things, right?

21 **A. They test for all kinds of stuff, so they**
22 **had ample time.**

23 Q. Okay. I guess just to be clear on the
24 discharge, ultimately, you were aware that if FMLA
25 time wasn't approved for your San Antonio trip, that

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1 **through UH, FMLA and medical-- excuse me, military**
2 **leave.**

3 Q. Okay. And ultimately, that leave was
4 denied, right?

5 **A. Yeah, exactly.**

6 Q. Okay. Right. And what was it that
7 they -- was it both sons or just one son was
8 graduating?

9 **A. One. But the other one was coming, too.**

10 Q. I understand. But what was he graduating
11 from?

12 **A. Boot camp.**

13 Q. Okay.

14 **A. They tried to say he was not active duty**
15 **is why they denied it. He is active duty.**

16 Q. They were saying he wasn't deployed,
17 correct?

18 **A. On their forms, it says active duty or**
19 **called to active duty. And to go down there and be**
20 **part of military events, that is on their front page**
21 **of their military FMLA papers.**

22 Q. Like I said, I think everybody respects
23 what your boys have done and they've done it with your
24 guidance. That's a great thing. But in this case,
25 you do understand -- and you may disagree with it, but

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1 you didn't have any PTO time available, right?

2 **A. My vacation was approved. It was**
3 **approved without pay. I have an e-mail that I**
4 **e-mailed David Ferko on October the 5th when we were**
5 **advised on when the graduation was. He approved it.**

6 **Then when my back went out of whack, he**
7 **said I can't -- I'll have to disallow it because we**
8 **have too much work to do. Go through military FMLA.**

9 Q. Okay.

10 **A. I submitted all the stuff. It was a**
11 **Friday at 4:00 when Stephanie Hodgkins called me. I**
12 **was leaving Monday.**

13 (Court Reporter marked

14 **Defendants' Exhibit 21.)**

15 BY MR. CAMPBELL:

16 Q. Have you seen this e-mail before today?
17 It looks like something you produced.

18 **A. Yes. That's when he took it out there.**

19 Q. Okay. Well, this is when he's telling
20 you you don't have a vacation request on file and
21 you --

22 **A. But it was already approved October 5th.**

23 Q. Okay. Well, you were saying you found
24 out -- at this point, it's Monday the 6th.

25 **A. This was from him. He said fill out**

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1 everybody has to have the policies in place with it.

2 And you certainly knew before you left
3 whether it was that day, a week, if it wasn't going to
4 be covered under FMLA, at that point, you'd violated
5 the attendance policy, right?

6 **A. Correct.**

7 (Court Reporter marked
8 **Defendants' Exhibit 22.)**

9 BY MR. CAMPBELL:

10 Q. And this was the final termination, the
11 corrective action notice?

12 **A. I didn't get this. But I'm assuming.**

13 MR. CAMPBELL: Okay. Let me
14 just show you one final exhibit.

15 (Court Reporter marked
16 **Defendants' Exhibit 23.)**

17 BY MR. CAMPBELL:

18 Q. Let me show you one final exhibit. I'm
19 just putting that in and you're welcome to look
20 through it. At some point in time in this case, you
21 had some admissions that you went through -- let me
22 make sure. Yeah, these are your responses.

23 You had Exhibit A. If you looked at
24 this, you had Exhibit A that had your signature
25 whether you admitted or denied whether you looked

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35 (Pages 137 to 140)

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1 through that. I just wanted to verify that was your
2 handwriting.

3 I just wanted to make sure that was
4 all -- and you're welcome to look through it and talk
5 to your counsel, see if there's anything you wanted to
6 change or if those are all satisfactory answers. If
7 you'll go back to Exhibit A, you'll see. I just want
8 to see if you have any changes or if you're standing
9 by them.

10 Do you have any changes or are all your
11 answers the same?

12 **A. The same.**

13 Q. Okay. So let me just ask you some final
14 questions just so I understand a few things. I guess
15 first of all, I asked you about the disability.

16 Is there anything else -- or, I guess,
17 what is it specifically, if you were to tell me what
18 UH did wrong, what is it that you believe UH did that
19 was improper?

20 In this lawsuit if you were going to tell
21 the jury or the judge, "Hey, UH violated the law in
22 these ways," how do you believe they did?

23 **A. Georgena forced me into programs by
24 giving falsified information that I didn't need to be
25 in.**

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1 what we're responding to.

2 **A. It should have really stopped when, okay,
3 I was accused of slurred speech. Okay, you've got a
4 medical diagnosis of why. It turned into a nightmare.**

5 Q. Okay. Is there anything else or is that
6 the key point, the fact that you think that they --

7 **A. I was down to 108 pounds. I couldn't
8 eat. Couldn't sleep. It was torturing my child.**

9 **You know, he even asked me, "Is this
10 worth your health, Mom?"**

11 Q. I'm just asking, is there anything else
12 specific that they did or is that the primary issue
13 that we're dealing with?

14 **A. Well, writing me up when I'm on FMLA.**

15 Q. Okay.

16 **A. You know, that's not --**

17 Q. Anything else specific?

18 **A. You know, I'm under the American
19 Disability Act [sic] and it's used against me.**

20 Q. Okay.

21 **A. You know, she said this was a two-year
22 program, Georgena.**

23 Q. Okay.

24 **A. And then I had to sign another year.**

25 **So how many years was this going to go**

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1 Q. Okay. Anything else? You've told me
2 about that, right? You've told me about that?

3 **A. The amount of stress and everything that
4 was put on my family through this whole entire
5 nightmare.**

6 Q. Okay. Anything specific as to the
7 nightmare that they did? That's what I'm asking you,
8 that they did.

9 **A. Emotionally and that?**

10 Q. I'm asking you what actions from UH. For
11 example, you said you had to do that five-week program
12 that you didn't like, right?

13 **A. It's not that I didn't like it. I didn't
14 belong there.**

15 Q. Okay.

16 **A. That is why I was doing private
17 counseling and still today go.**

18 Q. Okay. That's one. I'm just asking you,
19 is this anything else, anything specific that you can
20 say this was wrong, "That program was wrong." You
21 said how she got you there and the fact you're there.

22 Anything else?

23 **A. Well, she lied.**

24 Q. Okay. You told me that. Anything else?
25 I just want to know if there's anything else so I know

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1 on?

2 Q. Anything else?

3 **A. Not right at the moment.**

4 Q. Did you take -- keep any sort of notes
5 while you were employed by UH, like about the issues
6 in this case? Did you keep a journal or a diary?

7 **A. Yes.**

8 MR. CAMPBELL: Okay. Did we get
9 that?

10 MR. LANDRY: Everything that we
11 have has been provided, so....

12 MR. CAMPBELL: Okay. That's
13 fair. That's fair. Okay.

14 BY MR. CAMPBELL:

15 Q. And then as to your day-to-day contact, I
16 just want to verify your day-to-day contact with UH
17 employees, with UH as to your managers and supervisor.

18 You worked at home throughout your last,
19 let's just say, ten years of employment, right?

20 **A. Yes.**

21 Q. Very rarely saw in person your management
22 or supervisors or even coworkers, right?

23 **A. Yes.**

24 Q. You talked on the phone, I think we said
25 rarely, with your managers and supervisor.

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36 (Pages 141 to 144)

<p style="text-align: right;">Page 141</p> <p>1 A. Yes.</p> <p>2 Q. You e-mailed on a regular basis.</p> <p>3 A. Yes.</p> <p>4 MR. CAMPBELL: Okay. Is there</p> <p>5 anything from -- I guess that's it. And</p> <p>6 then as to the -- we talked about your</p> <p>7 post where you'd be today, as to your</p> <p>8 restrictions and whatnot.</p> <p>9 Let's take just a very short</p> <p>10 break. I think we're done. Let me speak</p> <p>11 to Don and we'll pop back in.</p> <p>12 (A brief recess was taken.)</p> <p>13 BY MR. CAMPBELL:</p> <p>14 Q. Okay. So I think that unless you have</p> <p>15 anything to add or supplemented or change or Frank has</p> <p>16 any questions, we can wrap up for today.</p> <p>17 Let me just ask you, is there anything</p> <p>18 you want to change, any of your testimony?</p> <p>19 A. No.</p> <p>20 MR. CAMPBELL: Frank, do you</p> <p>21 have any follow-up questions?</p> <p>22 MR. LANDRY: No.</p> <p>23 MR. CAMPBELL: Okay. Thank you</p> <p>24 for attending the deposition. I hope</p> <p>25 your recovery and all your treatment go</p>	<p style="text-align: right;">Page 143</p> <p>1 SIGNATURE PAGE</p> <p>2</p> <p>3 Date of Deposition: May 23, 2018</p> <p>4 Correction page(s) enclosed? Yes___ No___</p> <p>5 How many correction pages?_____</p> <p>6 _____ LAURA GREER Date</p> <p>7 ---</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 Please return this signed signature page along with</p> <p>18 correction page(s) to:</p> <p>19 COLLINS REPORTING SERVICE, INC.</p> <p>20 615 Adams Street</p> <p>21 Toledo, Ohio 43604</p> <p>22 (419) 255-1010</p> <p>23 Worksheet No.: RS18-2196</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 142</p> <p>1 well with all that as to your car</p> <p>2 accident and everything with that.</p> <p>3 (Deposition concluded and</p> <p>4 witness excused at 2:51 p.m.)</p> <p>5 (Signature reserved.)</p> <p>6 ---</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 144</p> <p>1 C E R T I F I C A T E</p> <p>2 I, Robert W. Scheid, Jr., a Notary Public in</p> <p>3 and for the State of Ohio, duly commissioned and</p> <p>4 qualified, do hereby certify that the within-named</p> <p>5 witness was by me first duly sworn to tell the truth,</p> <p>6 the whole truth, and nothing but the truth in the</p> <p>7 cause aforesaid; that the testimony then given was by</p> <p>8 me reduced to stenotype in the presence of said</p> <p>9 witness and afterwards transcribed; that the foregoing</p> <p>10 is a true and correct transcription of the testimony</p> <p>11 so given as aforesaid.</p> <p>12 I do further certify that this deposition was</p> <p>13 taken at the time and place in the foregoing caption</p> <p>14 specified.</p> <p>15 I do further certify that I am not a</p> <p>16 relative, employee of or attorney for any of the</p> <p>17 parties in this action; that I am not a relative or</p> <p>18 employee of an attorney of any of the parties in this</p> <p>19 action; that I am not financially interested in this</p> <p>20 action, nor am I or the court reporting firm with</p> <p>21 which I am affiliated under a contract as defined in</p> <p>22 the applicable civil rule.</p> <p>23</p> <p>24</p> <p>25</p>

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1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and affixed my seal of office at Toledo, Ohio
3 on this 12th day of June 2018.
4

5 _____
6 ROBERT W. SCHEID, JR., RPR
7 Notary Public
8 in and for the State of Ohio

9 My Commission expires May 30, 2023.
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